



To: All NJEA Field Staff  
From: Aileen O’Driscoll, Esq., Managing Attorney  
Date: March 25, 2020  
Re: New State Legislation Related to COVID-19

Please be advised these three new pieces of legislation were signed into law late last week. This is by no means an exhaustive list of new laws passed as emergency legislation related to the COVID-19 crisis, but a few of a handful of bills we have been tracking. We will update this as necessary.

### **Job Protection for Time Taken Off Work Due to COVID-19**

**Citations:** P.L. 2020, c. 9; Bill numbers: A3848/S2301

**Full text:** [https://www.njleg.state.nj.us/2020/Bills/A4000/3848\\_I1.PDF](https://www.njleg.state.nj.us/2020/Bills/A4000/3848_I1.PDF)

**Important notes:** 1- NJEA’s position is that this law applies to our members, and we will vigorously advocate for that position. However, you should be aware we have concerns that this law could be interpreted to not apply to public employees; it is possible that a limiting definition that would apply this law only to private section employees. Nevertheless, we believe that this law was intended to apply to all employees in the state based upon its broad language and will advocate for its application to our members.

2- This law does not provide for paid leave, only for job protection and reinstatement.

**Summary:** This new law provides that an employee cannot be penalized or terminated during this current state of emergency 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 the specified time off because the employee has, or is “likely to have,” an infectious disease which may infect others at the employee’s workplace. Upon return, the employee must be reinstated to their position with no reduction in seniority, status, employment benefits, pay or other terms and conditions of employment.

If an employer violates this provision, an affected employee may file a complaint with the Commissioner of Labor and Workforce Development. Alternatively, the affected employee may initiate a court action to seek reinstatement to employment.

Violation of this law by an employer will incur a fine of \$2500 and, where applicable, reinstatement of the affected employee.

## Public Meetings During Periods of Emergency

**Citations:** P.L. 2020, c. 11; Bill numbers: A3850/S2294

**Full text:** [https://www.njleg.state.nj.us/2020/Bills/A4000/3850\\_I1.PDF](https://www.njleg.state.nj.us/2020/Bills/A4000/3850_I1.PDF)

**Important note:** This law would apply to boards of education.

**Summary:** This law addresses holding public meetings during periods of emergency. During a state of emergency, public health emergency, or state of local disaster emergency, a public body will not be in violation of the Open Public Meeting Act (OPMA) if it elects to perform any of the following by “means of communication or other electronic equipment:”

- conduct a meeting and any public business;
- cause a meeting to be open to the public,
- vote, or
- receive public comment
- provide electronic notice of such meeting in lieu of the notice provisions provided under the OPMA.

The public body is still required to provide notice of the meeting, but is permitted to do so electronically. To the extent practicable, if notice of the meeting is electronic, the public business discussed or taking place at that meeting shall be limited to matters necessary for the continuing operation of government and which relate to the applicable emergency declaration.

The Department of Community Affairs and, as application to boards of education, Department of Education, are authorized to adopt rules and regulations to effectuate the purpose of this law.

## Amendment to OPRA

**Citations:** P.L. 2020, c. 10, amending N.J.S.A. 47:1A-5; Bill numbers: A3849/S2302

**Full text:** [https://www.njleg.state.nj.us/2020/Bills/A4000/3849\\_I1.PDF](https://www.njleg.state.nj.us/2020/Bills/A4000/3849_I1.PDF)

**Important note:** This relaxation of the deadline only applies when an emergency has been declared by law. Don’t allow custodians to use this exception during non-declared “emergencies,” and still push them to provide a response within the normal timelines if they continue to report to work.

**Summary:** Typically, a custodian of a government record is required by OPRA to respond to a request for records not later than seven business days after receiving it. This amendment provides that during a declared state of emergency, public health emergency, or state of local disaster emergency, a custodian of a government record will be required only to make a reasonable effort to respond within seven business days, or as soon as possible thereafter, as the circumstances permit.