

Philip D. Murphy, Governor  
Sheila Y. Oliver, Lieutenant Governor  
Diane Gutierrez-Scaccetti, Commissioner  
Kevin S. Corbett, President & CEO

**NJ TRANSIT**  
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May 5, 2020

Mr. Jerome Johnson, General Chairman  
SMART- TD  
8 Wilson Ave. 3<sup>rd</sup> floor  
Newark, NJ 07105

Via Email: [jjohnson@utulocal60.com](mailto:jjohnson@utulocal60.com)

Re: Handling of Rail Agreement employee absences and payments related to COVID-19

Dear Mr. Johnson:

As you know, during the burgeoning COVID 19 crisis, NJTRO published a "Q&A" on March 14, 2020 ("Rail Policy") which outlined how Agreement employees would be handled with respect to pay and attendance. As you also know, recently enacted legislation, including the Families First Corona Virus Relief Act ("the law") took effect on April 1, 2020. The law effects Rail Agreement employees and provides for various benefits which are different than that provided by the Rail Policy.

The intent of this letter is to outline and clarify the differences between the Rail Policy (March 14, 2020 Q&A), and the law as they apply to Rail Agreement employees. The varying categories of COVID-19 related absence, and their handling under the Rail Policy and the law, are set out below:

- **Employee** is diagnosed with COVID-19:

Per the Rail Policy, subject to documentation, employees with a diagnosed and documented positive COVID-19 case are allowed 'unlimited' sick leave with no deduction from their bank. The law allows for 10 (ten) paid 8-hour workdays. In the event the employee is out longer than the ten (10) paid workdays provided by the law, through no fault of their own, the Rail Policy will continue pay for additional days above the ten (10) days payable under the law.

- **Employee** is directed to quarantine based on close contact with COVID-19:

Per the Rail Policy, subject to documentation, employees with medical documentation of being in close contact with a confirmed positive COVID-19 case are allowed 'unlimited' sick leave with no deduction from their bank. The law allows for ten (10) paid 8-hour workdays. In the event the employee is out longer than the ten (10) paid workdays provided by the law, through no fault of their own, the Rail Policy will continue pay for additional days above the ten (10) days payable under the law.

Additionally, it's been asked if an employee can receive payment for multiple periods of quarantine based on close contact with a COVID-19 case. The answer is yes; in the event the employee has sufficient medical documentation and explanation, it is possible that an employee can be paid for non-consecutive quarantine periods, in accordance with the Rail Policy.

- **Employee** is directed to quarantine based on government order:

Per the Rail Policy, subject to documentation, employees required to quarantine based on a government order, for reasons such as local city-wide quarantine (e.g., Teaneck), or having returned from a foreign nation which requires a period of self-quarantine, are allowed 'unlimited' sick leave with no deduction from their bank. The law *may* allow for ten (10) paid 8-hour workdays. Each employee's individual case needs to be reviewed by the Rail FMLA Department. In the event the employee is out longer than the ten (10) paid workdays provided by the law, through no fault of their own, the Rail Policy will continue pay for additional days above the ten (10) days payable under the law.

- **Employee** is considered "high risk" and is directed to quarantine by a medical professional:

The Rail Policy did not intend to allow payment for "high risk" employees. The law allows for ten (10) paid 8-hour workdays. After the ten (10) paid 8-hour workdays provided by the law, employees have the following options:

- (1) request to take their leave accruals (personal, vacation, and sick),
- (2) Can request an un-paid leave of absence, or
- (3) Can file for disability payment through the Railroad Retirement Board. For further information on filing for a disability, please visit [www.rrb.gov](http://www.rrb.gov).

We understand that there has been considerable confusion around this issue given the phrasing in the Rail Policy, however, it was not the intent of the Rail Policy to provide unlimited payment to "high risk" employees. We further understand that some employees in this category have incorrectly received payment. **Be advised that employees in this category that incorrectly received payment will no longer receive those payments. The last of these payments will end on May 12, 2020 (last pay to be issued on May 21, 2020).** For effected employees in this category, all time and attendance starting on May 13, 2020 will need to be handled in any of the (3) methods set out above – taking leave accruals, leave of absence, or filing for RRB disability.

- Employee caring for a **family member** diagnosed positive with COVID-19:

Per the Rail Policy, subject to documentation, employees caring for a family member diagnosed and documented as positive with COVID-19 are allowed 'unlimited' sick leave with no deduction from their bank. The law allows for 10 (ten) paid days at 2/3 pay, capped at \$200 per day. Note that the Rail Policy provides a better benefit than the law with respect to employees in this category, and NJTRO has elected to continue to follow the Rail Policy. Accordingly, employees absent for this reason receive payment under the Rail Policy (full pay) and not under the law (2/3 pay, capped at \$200 a day) and in the event the employee is out longer than ten (10) work-days, through no fault of their own, the Rail Policy will continue pay for additional days above the ten (10) fully-paid 8-hour work days.

- Employee caring for a **family member** directed to quarantine based on close contact with COVID-19 positive case:

Per the Rail Policy, subject to documentation, employees caring for a family member that has medical documentation justifying close contact with a COVID-19 positive case are allowed 'unlimited' sick leave with no deduction from their bank. The law allows for 10 (ten) paid days at 2/3 pay, capped at \$200 per day. Note that the Rail Policy provides a better benefit than the law with respect to employees in this category, and NJTRO has elected to continue to follow the Rail Policy. Accordingly, employees out for this reason receive payment under the Rail Policy (full pay) and not under the law (2/3 pay, capped at \$200 a day) and in the event the employee is out longer than ten (10) work-days, through no fault of their own, the Rail Policy will continue pay for additional days above the ten fully-paid 8-hour work days.

- Employee unable to work due to caring for a "high risk" **family member**:

The Rail Policy did not intend to allow payment for employees unable to work due to caring for a "high risk" family member. The law allows for ten (10) paid days at 2/3 pay, capped at \$200 per day. Employees out for this reason receive payment under the law. After ten (10) paid days under the law (2/3 pay, capped at \$200 per day), employees have the following options:

- (1) request to take their leave accruals (personal, vacation, and sick),
- (2) Can request an un-paid leave of absence, or
- (3) Can file for disability payment through the Railroad Retirement Board. For further information on filing for a disability, please visit [www.rrb.gov](http://www.rrb.gov).

As with "high risk employees", discussed above, we understand there was confusion with respect to this category of employee given the phrasing in the Rail Policy, however, it was not the intent of the Rail Policy to provide unlimited payment to employees unable to work due to caring for a "high risk" family member. We further understand that some employees in this category have incorrectly received payment. **Be advised that employees in this category that incorrectly received payment will no longer receive those payments. The last of these payments will end on May 12, 2020 (last pay to be issued on May 21, 2020).** For effected employees in this category, all time and attendance starting on May 13, 2020 will need to be handled in any of the (3) methods set out above – taking leave accruals, leave of absence, or filing for RRB disability.

- Employee caring for a child or dependent based on closure of school or care facility:

The Rail Policy allows employees who are home to care for a child (grades K-8) based on school closure to take their personal leave or single vacation days. The law allows for employees to take their leave accruals for a child or dependent under their care, from birth up to the age of 18 (or older if there are special needs). Under the law, for the first ten (10) work-days missed, the employee can elect to be unpaid, OR can elect to use their vacation, personal, or sick days, OR can elect to be paid 2/3 pay capped at \$200 per day or any combination of these days. After this initial ten (10) work-day period, employees in this category may be eligible for up to ten (10) weeks of pay at 2/3, capped at \$200 per day. Each individual employee out for school closure

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**must** contact the Rail FMLA department for guidance on their individual circumstances with respect to school closure. Rail FMLA can be reached at 973-491-7945 or [railfmla@njtransit.com](mailto:railfmla@njtransit.com).

As a reminder, to ensure continuity of payroll, ALL rail Agreement employees that are to be out for a COVID-19 related absence must, as soon as practicable:

- Notify their immediate supervisor (Crew Callers Office) of their absence.
- Notify the Carrier's Medical Services Department via the COVID-19 Hotline at 888-890-0729.

For the most efficient handling, employees should also send a single email outlining their circumstances to the following two (2) email addresses, at the same time:

- [Medical@njtransit.com](mailto:Medical@njtransit.com)
- [RailFMLA@njtransit.com](mailto:RailFMLA@njtransit.com)

We hope this letter provided much needed clarity with respect to how Agreement employees will be handled during the ongoing COVID-19 crisis. Should you have additional questions, please contact Labor Relations.

Very truly yours,



S. M. Drayzen  
Deputy General Manager  
Labor Relations & Administration

Cc: J. Sincaglia (via email)  
P. Siano (via email)  
C. Tomaszfski (via email)  
L. Fanning (via email)  
J. Devine (via email)  
J. Victor (via email)  
K. Roseme (via email)  
N. Alvarez (via email)  
P. Matalia (via email)  
J. Schmatz (via email)  
K. Kharchenko (via email)  
L. Wooding (via email)