

§809. Absence for emergency response

1. Definitions. As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings.

A. "Employer" means any private or public employer, including the State and political subdivisions of the State. [PL 2005, c. 296, §1 (NEW).]

A-1. "Firefighter" has the same meaning as "municipal firefighter" and "volunteer firefighter" in Title 30-A, section 3151, subsections 2 and 4. [PL 2013, c. 477, §1 (NEW).]

A-2. "Emergency medical services person" has the same meaning as in Title 32, section 83, subsection 12 and includes a volunteer emergency medical services person. [PL 2019, c. 218, §1 (NEW).]

B. "Responding to an emergency" means responding to, working at the scene of or returning from a fire or emergency medical services call, a hazardous or toxic materials spill and cleanup or any other situation to which the fire department or emergency medical services provider has been dispatched. [PL 2019, c. 218, §1 (AMD).]

C. [PL 2013, c. 477, §2 (RP).]
[PL 2019, c. 218, §1 (AMD).]

2. Prohibition against discharge or disciplinary action. An employer may not discharge or take any other disciplinary action against or otherwise discriminate against an employee because of the employee's failure to report for work at the beginning of the employee's regular working hours or the employee's absence during the employee's regular working hours if the employee failed to do so or was absent because the employee was responding to an emergency in the employee's capacity as a firefighter or emergency medical services person and the employee reported for work as soon as reasonably possible after being released from the emergency. An employer may charge the lost time against the employee's regular pay or against the employee's available leave time. This subsection does not apply to the absence of a firefighter or emergency medical services person from that person's regular employment as a law enforcement officer, a utility worker or medical personnel when the services of that person are essential to protect public health or safety or if the employee has been designated as essential by the employer pursuant to subsection 6.

[PL 2019, c. 218, §1 (AMD).]

3. Notification; verification. An employee responding to an emergency under subsection 2 shall make every effort to immediately notify the employer that the employee may be late arriving to work or absent from work as a result of responding to an emergency prior to or during the employee's regular working hours. Notification may be provided by the employee, the employee's designee or the fire department or the emergency medical services provider. At the request of an employer, an employee losing work time as provided in subsection 2 shall provide the employer with a statement from the chief of the fire department or emergency medical services provider or the chief's designee verifying that the employee was responding to an emergency and specifying the date, time and duration of the response. [PL 2019, c. 218, §1 (AMD).]

4. Enforcement; penalty for violation. If an employer has violated subsection 2, the employee may bring an action in Superior Court in the county in which the employee resides or in the county in which the employer's place of business is located. The action must be brought within one year of the date of the alleged violation. If the court finds that the employer violated subsection 2, and if the employee so requests, the court shall order the employer to reinstate the employee in the employee's former position without reduction of pay, seniority or other benefits. The court also shall order any other appropriate remedy necessary to return the employee to the position the employee would have been in had the employer not violated subsection 2, including payment of back pay and reinstatement of any other benefits lost during the period in which the discharge or disciplinary action was in effect.

[PL 2005, c. 296, §1 (NEW).]

5. Impact on individual agreements. This section does not apply if the employer and the employee have entered into a written agreement, signed by the employer and the employee, that governs procedures to be followed when the employee is called to respond to an emergency as a firefighter or emergency medical services person.

A. [PL 2019, c. 218, §1 (RP).]

B. [PL 2019, c. 218, §1 (RP).]

[PL 2019, c. 218, §1 (AMD).]

6. Designation as essential. Upon receiving notice of an employee's status as a firefighter or emergency medical services person, an employer may designate the employee essential to the employer's operations when the absence of the employee would cause significant disruption of the employer's business. This designation must be made in writing and signed by both the employee and employer.

[PL 2021, c. 67, §1 (AMD).]

7. Information to be filed by employee with employer. This section applies only if:

A. The chief of the fire department or emergency medical services provider has a written policy that:

- (1) Specifies the circumstances under which firefighters or emergency medical services persons are needed to respond to an emergency; and
- (2) Affirms that firefighters or emergency medical services persons will be released as soon as practicable; and [PL 2019, c. 218, §1 (NEW).]

B. The employee presents a copy of the policy described in paragraph A to the employer within 30 days of notifying the employer of the employee's status as a firefighter or emergency medical services person. [PL 2021, c. 67, §2 (AMD).]

An employee shall notify the employer of any change to the employee's status as a firefighter or emergency medical services person, including the termination of that status, within 30 days of the change.

[PL 2021, c. 67, §2 (AMD).]

SECTION HISTORY

PL 2005, c. 296, §1 (NEW). PL 2013, c. 477, §§1-6 (AMD). PL 2019, c. 218, §1 (AMD). PL 2021, c. 67, §§1, 2 (AMD).

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