



## **Civil Rights and COVID-19: Frequently Asked Questions**

**Updated: April 16, 2020**

COVID-19 (“coronavirus disease 2019”) is the disease caused by a novel (new) coronavirus that was first detected in humans in December 2019. COVID-19 does not discriminate. The virus infects people regardless of their race, national origin, religion, or other protected characteristics.

As the virus has spread, the New Jersey Division on Civil Rights (DCR) has received an increasing number of questions about how the New Jersey Law Against Discrimination (LAD) and the New Jersey Family Leave Act (NJFLA) apply to individuals who have COVID-19, may be perceived to have COVID-19, or otherwise may be affected by COVID-19. Answers to some of the most frequently asked questions are below, along with information that you can use to contact DCR, which is responsible for investigating complaints of discrimination or harassment under the LAD as well as possible violations of the NJFLA.

To minimize risk from COVID-19, DCR has temporarily suspended in-person intake interviews, and is conducting such interviews by phone. In addition, for the duration of the emergency, DCR has relaxed its rules and procedures to accept an electronic signature on verified complaints; serve verified complaints on Respondents by email; and permit Respondents to serve Answers, Position Statements, and Responses to Document and Information Requests by email. If you would like to speak to a housing investigator, please call our Statewide Housing Hotline at 1-866-405-3050.

For all other types of complaints, please call one of our regional offices:

Newark: 973-648-2700  
Trenton: 609-292-4605  
Cherry Hill: 856-486-4080  
Atlantic City: 609-441-3100

### **What protections does the LAD offer?**

The LAD prohibits discrimination and harassment based on actual or perceived race, religion, national origin, gender, sexual orientation, gender identity or expression, disability, and other protected characteristics. The law applies in employment, housing, and places of public accommodation (generally, places open to the public, including businesses, restaurants, schools, summer camps, medical providers, etc.). Under the LAD, an employer, housing provider, or place of public accommodation must not discriminate and must take action to stop such harassment if it knows or should have known about it.

### **What are the LAD’s protections related to COVID-19 in employment?**

An employer cannot discriminate against you because of your actual or perceived race, national origin, religion, disability, or other LAD-protected characteristic. The LAD also prohibits bias-based harassment that creates a hostile work environment. Your employer must take reasonable steps to stop harassment if they knew or should have known about it, regardless of whether the harasser is a coworker or supervisor.

These protections apply even if the conduct at issue stems from concerns related to COVID-19. So, for example, your employer cannot fire you because you coughed at work and they perceived you to have a disability related to COVID-19. And if you have east-Asian heritage and a coworker repeatedly harasses you by claiming that Asian people caused COVID-19 or calling this “the Chinese virus,” your employer must take reasonable action to stop the harassment if they knew or should have known about it. Finally, if your employer lays off workers because of COVID-19, they cannot select employees to lay off based on race, national origin, religion, age, disability, or any other LAD-protected characteristic.

### **What are the LAD’s protections related to COVID-19 in housing?**

A housing provider cannot discriminate against you because of your actual or perceived race, national origin, religion, disability, or other LAD-protected characteristic.

These protections apply even if the conduct at issue stems from concerns related to COVID-19. For example, your landlord or building manager cannot refuse to make necessary repairs to your apartment because they say you are Asian and they are afraid of contracting COVID-19. A landlord or building manager also could not refuse to rent a property to you based on these reasons. The LAD does not prohibit a landlord from taking reasonable steps to protect the landlord or other tenants from COVID-19, but such reasonable steps would not include actions premised on stereotypes based on race or national origin.

### **What are the LAD’s protections related to COVID-19 in places of public accommodation (including schools and medical facilities)?**

Under the LAD, a place of public accommodation cannot discriminate against you because of your actual or perceived race, national origin, religion, disability, or other LAD-protected characteristic. The place of public accommodation also must take action to stop harassment based on these characteristics if they know or should have known about it, even if the harassment comes from another patient, customer, or student.

These protections apply even if the conduct at issue stems from concerns related to COVID-19. So, for example, if a classmate repeatedly told your child that your child must have (or must have had) COVID-19 because your child is from China, the school could be liable if you reported it and the school did not investigate or take action. Similarly, if someone on a public bus sees that you are wearing a yarmulke and starts screaming that “Jews are spreading the virus,” the LAD requires the bus driver and bus company to take action to stop the harassment.

Finally, medical facilities must ensure they do not discriminate based on actual or perceived race, national origin, religion, disability, or other LAD-protected characteristics in their provision of services, including the provision of tests or care related to COVID-19. For example, it is unlawful for a medical facility to discriminate in the administration of COVID-19 tests or provide different levels of COVID-19 treatment to Black and white patients because of their race. Similarly, it would be unlawful for a medical facility to refuse an individual treatment for COVID-19, or for any other illness, because they are Jewish. In addition, to ensure they are not discriminating on the basis of national origin or disability, medical facilities may need to provide qualified interpreter services to ensure effective communications with individuals with limited English proficiency and individuals who are deaf or hard of hearing.

**Does the LAD prohibit stores from designating certain hours as limited to shoppers over a specific age?**

Some grocery stores and other merchants have adopted policies under which only customers over a certain age are allowed to shop at the store during certain hours. For example, a store might limit the first hour of its daily operations to customers over 65 years of age, while serving customers of all ages for the rest of the store's hours. Such policies would not violate the LAD because age is not a protected characteristic in places of public accommodation.

**I would like to make an LAD complaint, but I am worried that my employer or housing provider will retaliate against me. What should I do?**

The LAD prohibits retaliation against a person for complaining about discrimination or bias-based harassment, or otherwise exercising or attempting to exercise their rights under the law. For example, an employer cannot fire someone for reporting COVID-19-related harassment to human resources. And a housing provider cannot evict someone for reporting housing discrimination to DCR.

**I witnessed a bias/hate crime on a sidewalk in my town. What should I do?**

If you've witnessed or experienced a bias/hate crime, you should report that incident to law enforcement immediately by calling 911 or your local law enforcement agency. You also may report a bias incident to the NJ Attorney General's Office online [HERE](#), via email to [NJBIAS@NJDCJ.org](mailto:NJBIAS@NJDCJ.org), or by calling the Bias Hotline at 800-277-BIAS (2427).

**Who is protected by the New Jersey Family Leave Act (NJFLA)?**

To be eligible for the protections available under the NJFLA, you must work either for a state or local government agency, or for a company or organization with 30 or more employees worldwide. In addition, you must have been employed by the agency or company for at least 1 year and have worked at least 1,000 hours in the past 12 months. Please click [HERE](#) to learn more about the NJFLA.

## **What protections does the New Jersey Family Leave Act offer?**

Governor Murphy has signed a law, effective March 25, 2020, that expands family leave protections for people who are unable to work because of the impact of COVID-19 on one or more of their family members or someone who is the equivalent of family.

Eligible employees generally can take up to 12 weeks of job-protected leave during any 24-month period to care for a family member, or someone who is the equivalent of family, who has a serious health condition (including a diagnosis of COVID-19) or who has been isolated or quarantined because of suspected exposure to a communicable disease (including COVID-19) during a state of emergency. They can also take job-protected leave to provide required care or treatment for their child if their child's school or place of care is closed by order of a public official due to COVID-19.

When you return to work, you are generally entitled to return to the same position you held before leave, and your employer may not retaliate against you because you took or attempted to take leave under the NJFLA.

## **When can I take job-protected NJFLA leave related to COVID-19?**

Governor Murphy has signed a law, effective March 25, 2020, that expands family leave protections for people who are unable to work because of the impact of COVID-19 on one or more of their family members or someone who is the equivalent of family.

If your family member, or someone who is the equivalent of family, has COVID-19 or is isolated or quarantined because of suspected exposure to COVID-19 and you are eligible for the protections of the NJFLA, you can take job-protected leave under the NJFLA to take care of them. If your child's school or place of care is closed due to the COVID-19 epidemic, you can take job-protected leave under the NJFLA to take care of them.

You cannot take leave under the NJFLA based on your own COVID-19 diagnosis, but you can use accrued Earned Sick Leave. As of October 2018, employers of all sizes must provide full-time, part-time, and temporary employees with up to 40 hours of earned sick leave per year so they can care for themselves or a loved one. Earned Sick Leave is enforced by the New Jersey Department of Labor and Workforce Development (NJDOL). NJDOL has set up a website about COVID-19. Please click [HERE](#) for more information.

You may also be eligible for job-protected leave under the federal Family and Medical Leave Act. The federal government recently passed emergency expansions of family leave and paid sick leave in the Families First Coronavirus Response Act, which is enforced by the federal Department of Labor. Please click [HERE](#) for more information.

**Am I eligible for job-protected leave if my child's school or daycare was ordered closed by a public official due to the spread of COVID-19?**

Yes. A school closure by a public official due to the COVID-19 epidemic is a basis for an eligible employee to take job-protected leave under the NJFLA. In addition, you can take Earned Sick Leave if you are unable to work because your child's school or daycare was ordered closed by a public official for a public health reason. Please click [HERE](#) for more information.

**My job duties can be performed via telework, but my employer is requiring me to report to work instead of allowing me to work remotely. What should I do?**

Governor Murphy issued an Executive Order that generally requires employers to allow their employees to telework if their job duties can be performed remotely. Click [HERE](#) to report a violation of that Executive Order.

**My employer is not providing me with personal protective equipment, such as masks and gloves, but I think I need them to protect myself from contracting COVID-19 at work. What should I do?**

The provision of personal protective equipment to employees is not specifically covered by the LAD or the NJFLA, but other laws and policies may require that you be provided with personal protective equipment. Whether your employer is required to provide you with personal protective equipment may depend on the nature of your work.

Governor Murphy issued an Executive Order that requires essential retail businesses to require workers to wear cloth face coverings while on the premises, except where doing so would inhibit the worker's health, and to wear gloves when in contact with customers or goods. The business must provide such face coverings and gloves for their employees at the business's own expense. The Executive Order also allows the use of more protective equipment.

The Executive Order also requires manufacturing businesses, warehousing businesses, and businesses engaged in essential construction projects to require workers to wear gloves and cloth face coverings while on the premises, except where the face covering would inhibit the worker's health. The business must provide such face coverings and gloves for their employees at the business's own expense. The Executive Order also allows the use of more protective equipment.

Click [HERE](#) to report a violation of the Executive Order relating to use of personal protective equipment at essential retail businesses, manufacturing businesses, warehousing businesses, and businesses engaged in essential construction projects.

The United States Department of Labor Occupational Safety and Health Administration (OSHA) enforces its personal protective equipment standards, which may apply to preventing worker exposure to COVID-19 depending on the circumstances. Please click [HERE](#) for more information.

**How do I get answers to questions I have about Earned Sick Leave, Temporary Disability, Worker's Compensation, or Family Leave Insurance?**

Those laws are enforced by the New Jersey Department of Labor and Workforce Development (NJDOL). NJDOL has set up a website about NJDOL Benefits and the Coronavirus (COVID-19). Please click [HERE](#) for more information.