



NJ Office of the Attorney General

**CIVIL RIGHTS**

# FACT SHEET

## Living with HIV or AIDS –Your Rights

### Is it against the law to discriminate against me because I have HIV or AIDS?

Yes. Under the New Jersey Law Against Discrimination (LAD), discrimination against people with HIV or AIDS is a form of disability discrimination. The LAD also prohibits discrimination based on sexual orientation. Some people living with HIV or AIDS are discriminated against because they are homosexual or are perceived to be homosexual. This type of discrimination also violates the LAD.

It is unlawful to discriminate against you or harass you because:

- you are living with HIV or AIDS
- someone thinks you are living with HIV or AIDS, or will develop HIV or AIDS in the future

It is generally unlawful to treat you differently or harass you because of HIV or AIDS:

- in employment
- when you get or try to get most types of goods or services or conduct business - for example, from shops, restaurants, banks, professional offices, state and local government facilities, or hospitals
- when you rent or try to rent living accommodations such as apartments, houses, commercial premises or hotel rooms
- when you buy or try to buy a home or other real estate
- when you apply to or are enrolled in most schools or colleges.

### What are My Employment Rights?

Generally, employers may not treat employees less favorably than other employees because they have HIV or AIDS. Such discrimination is unlawful whether you are a permanent, full-time, part-time or casual employee. It is also unlawful for labor

unions or employment agencies to discriminate against employees, applicants or trainees because of HIV or AIDS.

For example, it is generally against the law to:

- refuse to hire you, or fire you, because you have HIV or AIDS or have a HIV- or AIDS-related medical condition, providing you can perform the essential functions of the job
- involuntarily transfer you to a another job or work location just because you have HIV or AIDS
- deny you training, desirable job duties or a promotion just because you have HIV or AIDS
- refuse to hire you, fire you, transfer you or deny you desirable job duties or a promotion, because of the biases or prejudices of co-workers, customers, clients or the public related to HIV or AIDS

As long as you can do the job safely and effectively, it is unlawful for an employer, labor union or employment agency to take any adverse action against you just because of HIV or AIDS. In addition, if you need reasonable accommodations because of medical restrictions or limitations from HIV or AIDS, employers, labor unions or employment agencies must provide the reasonable accommodations you need to do the job, such as special equipment or modified duties, unless doing so would cause them undue hardship.

### What are My Rights in Housing and Real Estate Transactions?

It is unlawful to discriminate based on HIV or AIDS in the rental and purchase of housing, commercial properties and land.

**EXCEPTION:** The LAD does not apply to two kinds of residences:

- rental of an apartment in a two-family dwelling, if the owner occupies the other unit
- rental of a room or rooms in a one-family dwelling, if the person renting out the rooms, or that person's family, lives there.

You have the right to rent, buy and occupy housing, land or commercial facilities on the same terms, and based on the same criteria, as every one else.

For example:

- You may not be denied the right to rent or purchase property because you have HIV or AIDS, and you may not be denied the right to use the facilities that other tenants, owners or residents are permitted to use, such as swimming pools and gyms
- You may not be evicted just because you are living with HIV or AIDS
- A person must not refuse to rent or sell to you because of the biases or concerns of other tenants, occupants or neighbors regarding people living with HIV or AIDS.

## What are My Education Rights?

The New Jersey Law Against Discrimination prohibits most schools and educational institutions from discriminating against people who have HIV or AIDS in the educational and other activities and services they provide.

If you meet the school or educational facility's enrollment criteria, you cannot be denied admission or enrollment because you have HIV or AIDS, and you cannot be expelled or suspended merely because you have HIV or AIDS.

**EXCEPTION:** Any school or educational facility that is operated or maintained by a bona fide religious institution is exempt from the LAD.

## What are My Rights with Regard to Businesses and other Public Accommodations?

Public Accommodations, including shops, restaurants, resorts, camps, entertainment places, gyms, banks, professional offices, medical facilities, state and local government agencies, and public transportation, are prohibited from discriminating based on HIV or AIDS in providing goods or services or in permitting people access. Individuals and businesses may not refuse to contract with you or otherwise do business with you because of HIV or AIDS.

- You have the right to get most goods or services in the same way, and on the same terms and prices, as people who do not have HIV or AIDS.

- You may not be turned away because someone thinks that you might offend or worry other customers because of HIV or AIDS.

## Am I Protected From Harassment Because of HIV or AIDS?

Yes. It is unlawful for any employer, education provider, any housing provider or other person engaged in real estate transactions, or any proprietor, employee or agent of a business or other public accommodation to harass you or permit others to harass you because of HIV or AIDS; this includes making or permitting derogatory comments about people with HIV or AIDS, or permitting people to interfere with your education, your employment, or your use of premises or facilities because you have HIV or AIDS.

## Am I Protected From Reprisal or Retaliation?

Yes. The LAD also prohibits reprisal or retaliation because an individual made a good faith complaint about discrimination or harassment based on HIV or AIDS, or assisted someone else in making such a complaint.

## What Should I Do Next?

When the parties are unable to resolve a dispute themselves, the law provides two basic ways to seek relief under the Law Against Discrimination.

### **Administrative remedy:**

The Department of Law & Public Safety, through its Division on Civil Rights, is responsible for enforcing the Law Against Discrimination (LAD). If you believe that you have been the victim of unlawful discrimination, please visit or phone us at the Division on Civil Rights office closest to where you live or where the discrimination occurred. Our addresses and phone numbers are at the end of this fact sheet, or visit us on the web at [www.NJCivilRights.gov](http://www.NJCivilRights.gov).

A complaint must be filed with the New Jersey Division on Civil Rights within 180 days of the act of discrimination. An initial evaluation will be conducted to determine if you state a claim for relief under the LAD. If so, the Division will prepare a complaint for you to sign and then the Division will conduct an investigation into your allegations. If the investigation shows

enough evidence to support your complaint (known as probable cause), and your complaint cannot be settled, a hearing will be held in the Office of Administrative Law. You may choose to retain a private attorney to represent you at the hearing, or a lawyer will be provided to prosecute the case on behalf of the New Jersey Division on Civil Rights. At the conclusion of the hearing, the Director of the Division on Civil Rights will make a final decision as to whether unlawful discrimination has been proven and, if so, what remedies should be awarded to the complainant. Other than fees for a private attorney, if applicable, there is no cost to the individual for these services.

#### Judicial Remedy:

In the alternative, an individual who believes he or she has been discriminated against in violation of the LAD may file a complaint and try his or her case in New Jersey Superior Court. Individuals usually hire an attorney to represent them in a Superior Court action. A party cannot file with the Division on Civil Rights and in Superior Court at the same time. A Superior Court action must be filed within two years from the act of discrimination.

## What Remedies Are Available?

In employment cases, a prevailing complainant may be entitled to be placed into the job he or she was unfairly denied, with back pay and interest; restoration of employee benefits that the complainant would have received but for the unlawful discrimination; damages for pain, humiliation, and emotional distress caused by the unlawful discrimination; reasonable attorney's fees if the complainant was represented by counsel; and out-of-pocket expenses associated with pursuing the complaint.

In housing cases, a prevailing complainant may be entitled to the house or apartment that was unfairly denied, plus costs associated with finding another place to live; damages for pain, humiliation and emotional distress caused by the unlawful discrimination; and reasonable attorney's fees if the complainant was represented by counsel.

In addition, the Division may impose penalties on the party who violated the LAD of up to \$10,000 for the first violation, up to \$25,000 for a second violation within 5 years, and up to \$50,000 for third and subsequent offenses within 7 years. These penalties are payable to the State, not the complainant. Punitive damages are only available in Superior Court actions.

Remember, it's against the law for anyone to retaliate against you because you have exercised your rights under the New Jersey Law Against Discrimination.



NJ Office of the Attorney General

# CIVIL RIGHTS

The Department of Law & Public Safety, through its Division on Civil Rights, is responsible for enforcing the law. To file a complaint, contact or visit the office nearest you:

#### Atlantic City Regional Office:

1325 Boardwalk, Tennessee Ave. & Boardwalk  
Atlantic City, NJ 08401

Phone: (609) 441-3100 • Fax: (609) 441-3578

#### Camden Regional Office:

One Port Center, 4th Floor, Suite 402  
2 Riverside Drive, Camden, NJ 08103

Phone: (856) 614-2550 • Fax: (856) 614-2568

#### Newark Regional Office:

31 Clinton Street, Newark, NJ 07102

Phone: (973) 648-2700 • Fax: (973) 648-4405

#### Trenton Regional Office:

140 East Front Street / P.O. Box 090  
Trenton, NJ 08625-0090

Phone: (609) 292-4605 • Fax: (609) 984-3812

Visit our web site at [www.NJCivilRights.gov](http://www.NJCivilRights.gov)