



Sexual Orientation Discrimination – Your Rights

Does New Jersey Law Protect People from Discrimination on the Basis of Sexual Orientation?

Yes. The New Jersey Law Against Discrimination prohibits discrimination based on sexual or affectional orientation. Federal law does not extend protection in this area. This means that it is against the law for you to be treated differently or otherwise denied the rights and privileges extended to others on the basis of sexual orientation. The law also forbids discrimination on the basis of 'perceived' sexual orientation, meaning that the Law protects you if you are subjected to discrimination because someone makes an erroneous presumption about your sexual orientation.

The law is equally applicable to men and women. The sexual orientations specifically included are:

- Heterosexuality, which is attraction to people of the opposite gender
- Homosexuality, which is attraction to people of the same gender
- Bisexuality, which is attraction to people of both genders
- Transgender, which is a person whose gender identity and/or expression differs from the sex they were assigned at birth or
- Gender Identity or Expression, which is an internal, personal sense of being a man or a woman, or an external showing of one's gender identity, usually through "masculine" or "feminine" haircut, attire, voice, or body characteristics

What Kinds of Discrimination Are Illegal?

The law protects you against discrimination in four primary areas: Employment, Access to Public Places, Business Transactions and Housing.

Unlawful Employment Discrimination

Examples of illegal employment discrimination based on sexual orientation include:

- Refusal to hire
- Termination

- Harassment
- Unequal salary or unfair treatment in other terms, conditions or privileges of employment

Exception

The law does not require employers to offer insurance and other fringe benefits to unmarried couples, including same-sex partners of employees who may have been married or civil unioned in other jurisdictions, even if they provide them for married couples.

Places of Public Accommodation

Examples of places of public accommodation in which sexual orientation discrimination is not allowed include places generally open to the public where goods and services are provided. This includes restaurants, movie theaters, stores, camps, organizations, schools, professional offices (such as doctors and lawyers), and other facilities.

Exception

The law does not consider private clubs or schools operated or maintained by a bona fide religious or sectarian institution to be places of public accommodation.

Housing

Individuals are protected from discrimination in the purchase or rental of real estate. This means that a landlord, realtor, rental agent, or seller may not refuse to make available, show, list, sell, or rent a house, apartment, other dwelling unit or commercial property because of any presumptions or actual knowledge of your sexual orientation.

Business Transactions

Individuals are protected from discrimination in any business transaction, such as the purchase of goods or services, or obtaining a loan, mortgage or other form of credit, because of any presumptions or actual knowledge of your sexual orientation.

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.

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