



Sex Discrimination - Your Rights

What Does New Jersey Law Say About Sex Discrimination?

Sex discrimination occurs when:

- You are treated differently or unfairly because of your gender; that is, because you are a woman or because you are a man, and you are denied a job, promotion, equal pay or other job benefits, or
- You are subjected to an unwarranted sexually hostile environment; that is, you are the target of unwelcome, offensive conduct on account of your gender, or conduct that is sexually oriented. This includes hostile, demeaning or intimidating comments, offensive gestures, non-consensual sexual contact, unwanted sexually suggestive language (oral or written), unwanted sexually hostile, demeaning or intimidating comments (oral or written); and sexual abuse, or
- You are treated differently or unfairly because you are pregnant, or
- Sexual favors are demanded in exchange for a job benefit, like a promotion, or
- A policy, pattern or practice that applies to all persons exists and is gender neutral on its face, but that in effect, disadvantages members of your gender more so than the opposite gender. For example, it would be sex discrimination for an employer to require that an employee be at least 6 feet tall in order to be considered for a particular position, unless the job could not reasonably be performed by someone under that height. Otherwise, such a policy would unfairly discriminate against women, because fewer women than men are 6 feet or taller; therefore, fewer women would qualify to be considered for the position.

When is Sex Discrimination Against the Law?

When it occurs in the areas of employment, housing, places of public accommodation, contracting, and credit.

Employment

The scope of the law reaches from the advertisement of a particular position to the discharge of the employee. Nondiscriminatory criteria must be used in the application process, hiring and firing, determining wages, and in the conditions or privileges of employment. The refusal of an employer to accept any person for employment based on

sex must be justified as a qualification reasonably necessary to the normal operation of the particular business or enterprise, such as when a job involves intimate personal contact with a client. This exception cannot be based on custom, client preferences, or stereotypes.

Exception: Private clubs, associations and organizations are exempt from the law.

Housing

It is unlawful for someone who owns or possesses property to refuse to sell, rent or otherwise discriminate on the basis of sex. This applies to public or private housing, whether renting or purchasing, whether for personal or business use. It is also unlawful for any real estate agent or lending institution to discriminate based on the sex of the applicant or customer.

Exception: A homeowner who rents rooms in the home in which he/she lives is not covered by the state law. Also, a homeowner who lives in one unit of a two-family residence and rents the other unit is not covered.

Places of Public Accommodation

No owner, manager, employee or agent of any public accommodation or facility may discriminate on the basis of sex.

Places of public accommodation include facilities which provide goods and services to the public, including, but not limited to:

- Retail or department stores.
- Services provided to the public like delivery services, auto repair shops and dry cleaners.
- Places where food is sold for consumption, including bars, restaurants, and grocery stores.
- Public transportation, such as airplanes, buses, ferries, boats, trains, and their terminals.
- Public amusement facilities, such as game rooms, theaters, movie houses, gyms, parks, and music halls.
- Public service buildings, such as hospitals, restrooms, clinics, libraries, and professional offices (such as doctors and lawyers).
- Educational facilities, such as colleges, universities and academies.
- Trade or business schools.

- Primary and secondary schools, and the programs encompassed within the schools, including extracurricular activities.

Exceptions: Public accommodations DO NOT include: private clubs; educational facilities operated by a bona fide religious institution; places which, by nature, are reasonably restricted to individuals of one sex, such as, bathhouses, dressing rooms, and summer camps. This exception DOES NOT apply to restaurants or places where alcoholic beverages are served.

What can I do if I feel that I have been discriminated against because of my sex?

If you believe that you have been discriminated against in any circumstance, communicate your feelings to the person or entity causing the problem. Tell that person you believe that his/her behavior, policy, pattern or practice is against the law. If after attempting to resolve the matter, you feel that communications have 'broken down', contact the New Jersey Division on Civil Rights.

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 offices' 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 at 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. After 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.

Relief 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