



Pregnant Women & Discrimination - Your Rights

Does discrimination based on pregnancy violate the New Jersey Law Against Discrimination?

Yes. Under New Jersey law, discrimination based on pregnancy, childbirth or pregnancy-related medical conditions is considered a form of sex discrimination. Please note that some federal laws may provide additional employment protections, rights and benefits to pregnant women. Information about these other laws is available from the United States Equal Employment Opportunity Commission (EEOC), www.EEOC.gov, and the United States Department of Labor, www.dol.gov. For information about your right to take time off from work to care for a newborn baby, you may also wish to look at the New Jersey Division on Civil Rights Fact Sheet on the New Jersey Family Leave Act.

It is generally unlawful to treat you differently or harass you because you are pregnant:

- in employment
- when you get or try to get most types of goods or services - for example, from shops, restaurants, banks, professional offices, state and local government facilities, or hospitals
- when you rent or try to rent accommodations such as apartments, 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 based on pregnancy. Employers must not discriminate based on pregnancy regardless of whether the

employee is a permanent, full-time, part-time or casual employee.

For example, it is generally against the law to:

- refuse to hire you, because they think you are likely to become pregnant
- fire you because you are pregnant or have a pregnancy-related medical condition, providing you can perform the essential functions of the job
- require that you begin disability or maternity leave before the date you wish to begin your leave, so long as you can perform the duties of the job
- refuse to accommodate your need for maternity or alternate uniform or clothing options
- transfer you to a another job or work location to keep you "out of sight" or reduce your visibility while you are pregnant
- involuntarily transfer you to another job because they think it will be safer for you or the fetus
- deny you training, desirable job duties or a promotion just because you are pregnant
- deny you the same or similar job when you return from maternity or pregnancy leave

What are My Rights in Housing and Real Estate Transactions?

It is unlawful to discriminate based on pregnancy 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

Someone who is pregnant has the right to rent, buy and occupy housing, land or commercial facilities on the same terms, and based on the same criteria, as people who are not pregnant.

For example:

- You may not be denied the rental or purchase of a particular unit because the person making the rental or sales decisions believes it is unsafe for you to walk up stairs
- You may not be denied the right to rent or purchase property because you are pregnant and unmarried
- You may not be evicted just because of your pregnancy
- A person must not refuse to rent or sell to you because other tenants, occupants or neighbors might be offended or troubled by your pregnancy

What are My Education Rights?

The New Jersey Law Against Discrimination prohibits most schools and educational institutions from discriminating based on pregnancy 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 are pregnant, and you cannot be expelled or suspended merely because you are pregnant.

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, banks, professional offices, medical facilities, state and local government agencies, and public transportation, are prohibited from discriminating based on pregnancy 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 pregnancy.

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

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

What If I Am Harassed Because of My Pregnancy?

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

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 pregnancy 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.

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**