

## ● LAW AGAINST DISCRIMINATION

*STATUTORY CITATION:* N.J. Rev. Stat. §§ 10:5-1 – 10:5-42

*GENERAL SUMMARY:* The Law Against Discrimination, in part, affirms as a civil right that all persons in New Jersey have the opportunity to obtain employment without discrimination because of race, creed, color, national origin, ancestry, age, marital status, affectional or sexual orientation, familial status, disability, nationality, sex, or gender identity or expression. The statute, which is applicable to most agricultural and non-agricultural employment other than domestic service, defines various prohibited discriminatory employment practices and establishes an administrative procedure for filing and resolving related complaints.

### *SPECIFIC TERMS AND CONDITIONS*

**UNLAWFUL EMPLOYMENT PRACTICES** — With certain very narrow exceptions, it is illegal for an employer, because of an individual's race, creed, color, national origin, ancestry, age, marital status, civil union status, domestic partnership status, affectional or sexual orientation, genetic information, pregnancy, sex, nationality, gender identity or expression, disability, atypical hereditary cellular or blood trait, liability for U.S. military service, or refusal to submit to a genetic test or reveal the results of a genetic test:

- (1) To refuse to hire the individual.
- (2) To fire the individual.
- (3) To require the individual to retire, unless justified by legitimate factors other than age.
- (4) To discriminate against the individual in compensation or in the terms, conditions or privileges of employment.
- (5) To print or circulate any employment-related statement or advertisement, or use any form of job application, which expresses a limitation, specification or discrimination as to race, creed, color, national origin, ancestry, age, marital status, civil union status, domestic partnership status, affectional or sexual orientation, gender identity or expression, disability, nationality, pregnancy, sex, or liability of a job applicant for U.S. military service, unless such distinction is a bona fide occupational qualification.

Similar discriminatory acts by employment agencies and labor organizations are likewise prohibited.

**COMPLAINTS** — Anyone claiming to be aggrieved by an unlawful employment practice may file a complaint with the state enforcement agency, which is obligated to investigate the charges. If investigation finds probable cause to believe the allegations are true, the agency has 45 days from the date of such finding to eliminate the illegal practice informally. A formal hearing will be convened, however, to allow the employer or other respondent to answer the charges formally whenever conciliation is unsuccessful, and if evidence presented at the hearing confirms the occurrence of a violation, an order will be issued requiring appropriate corrective action by the respondent.

### *SPECIAL NOTES OR ADVISORIES*

**RETALIATION** — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

### *ADMINISTRATION AND ENFORCEMENT*

**PRIMARY ENFORCEMENT AGENCY** — *Division on Civil Rights, Department of Law and Public Safety, Trenton, New Jersey 08625 (609-292-4605)*. In enforcing compliance with the Law Against Discrimination, the Department may receive complaints, conduct investigations, hold hearings, subpoena witnesses and documents, and take sworn testimony. In addition to affirmative action and other relief that may be granted a complainant under an administrative order or court judgment, the Department is authorized to assess money penalties of from \$2,000 to \$5,000 against anyone who violates any of these provisions.

**SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY** — If the state attorney general deems it in the public interest, the power to investigate complaints, conduct conciliation conferences, hold hearings and take testimony may be delegated to county or municipal civil rights offices where such agencies have been locally established. The findings and conclusions of local civil rights authorities are subject to review by the Division on Civil Rights.

**PRIVATE CIVIL ACTION** — As an alternative to the administrative complaint procedure outlined above, a worker may file a lawsuit in superior court for relief from alleged employment discrimination, utilizing a private attorney or public legal service provider. Court action automatically bars the filing of a complaint with the state agency while the suit is pending.