

# Rights of People with Disabilities

People with disabilities have the legal right to obtain employment and the accommodations and privileges available in most places that offer housing, goods, or services to the general public, without discrimination or differential treatment. The New Jersey Law Against Discrimination (LAD) protects people with disabilities, as well as people who have had a disability in the past or people who are treated by others as if they have a disability.

Employers and providers of housing, credit, entertainment, and services must take reasonable steps to make the employment opportunities, facilities, or services that they offer to the general public available to people with disabilities, unless it would cause the employer or provider undue hardship to accommodate the needs of a person with a disability.

A person with a disability cannot be denied employment, unless the disability prevents his or her performance of essential job duties or would probably cause serious harm to him or her or to others.

## Is Disability Discrimination Against the Law?

Yes. It is generally against the law to discriminate against you or harass you because of:

- any disability you have now
- any disability that someone thinks you have now
- any disability you have had in the past
- any disability someone thinks you had in the past
- any disability that someone knows you will get in the future, or that someone thinks you might get in the future

The term disability is very broad under New Jersey law. Disability includes:

- physical disability, infirmity, malformation, or disfigurement
- physical illness or disease
- mental, psychological or developmental disability that results from conditions which prevent the normal exercise of any bodily or mental function or which can be shown to exist through accepted clinical or laboratory diagnostic tests. This includes, but is not limited to, people with paralysis, amputation, epilepsy, visual or hearing impairments, speech impediments, AIDS, HIV infection, Sickle cell trait, and other atypical hereditary cellular or blood traits.

## When Is Disability Discrimination Against the Law?

Disability discrimination is against the law:

- in most types of employment
- when you try to get most types of goods or services
- when you try to rent or buy housing or to get hotel accommodations
- when you apply to or are studying in most schools or colleges
- when you try to join an organization that is open to the general public
- when you try to get services or goods, or to enjoy facilities offered to the general public

## What are My Work Rights?

### You have the Right to:

- apply for and be fairly considered for jobs, apprenticeships and traineeships based on merit. In other words, if you are a qualified person for the job and you can do all the essential things that the job requires then you should not be excluded. In addition, employers must provide reasonable accommodations you need to do the job—such as special equipment or modified duties or schedules, unless it would cause them undue hardship, such as undue expenses, to do so.

Obviously, there will be times when an employer will be able to say that your disability prevents your performance of essential job duties or poses a probability of serious harm. For example, if you don't have a driver's license or you can't use a phone, and driving or using a phone is essential to the job, the employer can refuse to employ you. However, before they decide this, they must first make a person-specific, job-specific inquiry to determine whether you can perform the job safely if your needs are reasonably accommodated. Of course, if there is something that

the employer can buy which would enable you to use the phone and you are a qualified person for the job, then they must buy it unless this would cause them undue hardship. Additionally, if driving or using the phone is only a small part of the job or that part of the job could be easily one by someone else, then they must not refuse to employ you. Instead, the employer should exchange these duties for other duties that you can do or work out the problem in some other way. It is all right for an employer to ask you to take a medical examination after they have made you a bona fide offer of employment, conditioned on taking the examination, only if the employer has all persons hired into that position take a medical examination and does not use the examination to screen out qualified people with disabilities.

- be trained, promoted, get all other work benefits as other employees. Again, employers must provide you with any extra help or facilities you need—as long as this won't cause them undue hardship.
- stay on the job. An employer can only terminate your employment based on your disability, if the disability stops you from doing your job properly and your special needs cannot be reasonably accommodated. Again, employers must not make you do non-essential parts of the job and they must provide you with facilities or services you need to stay on the job as long as this does not cause them undue hardship. Employers must do this if you had the disability when you started the job or if the disability began after you started the job.
- not be harassed about your disability - when you apply for a job, when you are at work, or when you leave your job.

## What are My Rights with Regard to Goods and Services?

Goods and services include goods or services that you get from shops, restaurants, entertainment places, banks, professional offices, state and local government departments, public transportation ...

### **You have the Right to:**

- get most goods or services in the same way as people without disabilities. For example: people must not refuse you service because you have a service or guide dog with you (for seeing, hearing, or mobility). All such dogs must be allowed to accompany their owners - even into eating areas.
- people must not refuse you service just because you use a wheelchair - unless it is physically impossible or dangerous to give you access to the place where the service

is. Any building that you have to get into in order to get to a service you need or any service (including transportation) that you need to use would cause the person who owns the building or service "undue hardship" to make it accessible. Obviously, to make some existing places accessible will cost a lot of money. However, in many instances small or less costly changes will be able to be made which would improve accessibility without causing "undue hardship". In these cases, the changes should be made. Under the federal Americans With Disabilities Act (ADA), most places used by the general public need to have plans for how they are going to make their service accessible in the future. In general, the cost of making new buildings or services accessible from the start will be lower than the cost of remodeling old buildings. So, it will probably be harder for the owner of a new building or service to prove "undue hardship".

- in the event that your disability means that you can't drive and you are asked to provide identification before the goods or services are provided, you must be given a choice of identification you can provide. No one must insist that you show only a driver's license.
- not be turned away, because someone thinks that you might offend or worry other customers.
- get most goods or services on the same terms as people who don't have a disability.  
For example:
  - you must not be harassed because of your disability.
  - they must not make you pay more, or meet harder rules, than people who don't have a disability.

### **Note that there are Two Main Exceptions to Goods and Services Rights:**

- the LAD does not apply to the operation of or the terms, conditions and administration of any bona fide insurance, pension, employee benefits program or plan
- a place of public accommodation, which may include sporting organizations that are open to the public, may deny access or participation to a person with a disability, if it is probable that serious harm will result to the person or to others.

## What are My Housing Rights?

It is unlawful to discriminate against people with disabilities in the rental and purchase of land and housing. However, the LAD does not apply to a single apartment in a two-family dwelling, if the owner occupies one of the units or to the rental of a room or rooms by the owner or occupant of a one-family dwelling, if the owner or his family lives there.

## You have the Right to:

- rent an apartment or commercial facility or buy a home or other real estate in the same way as people who don't have a disability. If you can pay the rent and look after the accommodation adequately, you have the same right to the accommodation as anyone else. A person must not refuse you accommodation because other tenants or others living nearby might be offended or troubled by your disability.
- not be denied the opportunity to rent or buy housing, because of any actual past, existing, or future disability of a person who may reside in the housing after you rent or buy it, or because of the disability of any person associated with you.
- not be put on a waiting list for any longer than people who don't have a disability. A person can only refuse you accommodation because of your disability if:
  - it would cause them "undue hardship" to provide you with access to the housing, or
  - they can't provide any special services or facilities that you need. They must provide you with any special services or facilities that you need - unless it would cause them undue hardship to provide them, or
  - the accommodation is provided especially for people with a particular type of disability that you don't have, or
- rent or buy land, housing or commercial facilities on the same terms as people who have a disability.  
For example:
  - A person may not make you pay extra rent or security or higher interest or fees just because of your disability - even if he/she is providing you with special services or facilities
  - A person may not give you a shorter tenancy or evict you just because of your disability, and
  - A person may not harass you just because of your disability.

## What are My Rights to Education?

### You have the Right to:

- generally apply for and get education, training, or testing at any establishment that takes applications from or serves the general public, in the same way as people without disabilities. A person can only refuse you enrollment, if you can't meet the relevant academic level or if you need special building adjustments, special services, or special facilities that they can't provide. He/she must make any adjust-

ments to the building and provide special services or facilities that you need - unless it would cause them undue hardship to do this. This means that generally adjustments must be made to allow you to be able to attend classes, learn, study, and sit for tests and examinations.

For example:

- if you have limited mobility, accommodation should be made to ensure that your classes are in rooms that are accessible and near enough to allow you to get to each class.
- if you have difficulty writing, it may be appropriate to provide you with help with taping classes.
- if you need a reader, it may be appropriate to provide you with one or help you with the cost.

## What are Public Accommodation Rights?

A place of public accommodation includes restaurants, movie theaters, stores, camps, organizations, schools, professional offices, such as doctors and lawyers, and other places that offer goods, services, or facilities to the general public. The LAD does not consider private clubs or schools operated or maintained by a bona fide religious or sectarian institution as places of public accommodation.

### You have the Right to:

- enjoy the facilities and privileges of a place of public accommodation in the same way as people without disabilities. In general, you can only be refused access or services for the same reasons as people without disabilities - For example, because you refuse to pay or if appointments are required for all. You can only be refused access or services because of your disability if access or any special services or facilities that you need can't be provided. Special services or facilities you need must be provided, unless it would cause them undue hardship to do this. The public accommodation must not refuse you access or services because other members might be offended or troubled by your disability.
- get benefits and services on the same basis as people who don't have a disability. Again, the public accommodation must provide you with any access or special services or facilities that you need - unless it would cause them undue hardship to do this. For example: if you want to dance on the dance floor in a wheelchair the establishment should allow this - unless it is unsafe. If you need any type of service or guide dog (for seeing, hearing or mobility), the public accommodation must allow the dog to accompany you at all times - including into eating areas.

# What Can I Do If I'm Treated Differently or Harassed Because of My Disability?

Read carefully through this factsheet to check that what's happened seems to be against the law. If you aren't sure if it's against the law, phone us to check on your rights.

If what's happened seems to be against the law, try talking to the person or organization that is discriminating against you. Explain that you think that it's against the law.

If this doesn't work, or isn't appropriate and you have been treated unlawfully in the last 180 days, phone or visit us at the Division on Civil Rights Regional Office closest to where you live or where the discrimination occurred. Our address and phone numbers are at the end of this factsheet.

We have the legal power to investigate your complaint and if it's against the law, to conciliate it. This means that we will try to help you and the person or organization you are complaining about reach a private settlement. Whether there is a conciliation will depend on the circumstances of your case. It could be financial compensation, that you are considered for a job, that you get any special facilities or services you need, that an education program is run to ensure that people with disabilities aren't discriminated against by that organization in future, and so on.

Our services are free. It's against the law for anyone to hassle or victimize you because you've complained to us.

If your complaint is not conciliated, you may go to a hearing before the Office of Administrative Law - a proceeding that provides a recommendation to the Director of the Division on Civil Rights. The Director then issues a final order that must be followed, unless it is successfully appealed to the Appellate Division of the Superior Court of New Jersey.

You may also have the right to file a lawsuit in state court or to file a claim with the federal Equal Employment Opportunity Commission, if you have been discriminated against in employment or with the federal Department of Justice if you have been discriminated against with respect to public accommodations in violation of the ADA. If you wish to discuss your situation, contact the regional office closest to where you work or live for further information.



## CIVIL RIGHTS

### For More Information

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 Satellite Office:**

26 Pennsylvania Avenue, 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  
TDD# (609) 757-2958

#### **Newark Regional Office:**

31 Clinton Street, Newark, NJ 07102  
**Phone: (973) 648-2700**  
Fax: (973) 648-4405 / (973) 648-7582  
TDD# (973) 648-4678

#### **Paterson Regional Office:**

100 Hamilton Plaza, Paterson, NJ 07501  
**Phone: (973) 977-4500**  
Fax: (973) 977-4511  
TDD# (973) 977-1955

#### **Trenton Regional Office:**

140 East Front Street / P.O. Box 090  
Trenton, NJ 08625-0090  
**Phone: (609) 292-4605**  
Fax: (609) 984-3812  
TDD# (609) 292-1785

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