

10. What if after I have filed my complaint with the Division, I decide I do not want my complaint investigated by the Division?

You may request the Division to transfer your case to the Office of Administrative Law for a hearing with an administrative law judge (ALJ) and at the hearing you can present your case personally or obtain an attorney to represent you. However, you must wait 180 days after filing your complaint before you can request the Division to transfer your case to an ALJ. Your case will not be transferred to the Office of Administrative Law when the Director of the Division has reached a finding of No Probable Cause or the complaint has been otherwise dismissed.

11. Do I need a lawyer to represent me before the Division?

No, you are not required to have an attorney represent you, but you may decide to consult with or retain the services of an attorney during the investigation and hearing stages depending on the complexity of the case and financial resources of the individual.

If the Director issues a finding of Probable Cause, you can be represented by a Deputy Attorney General at the hearing at no cost to you.

12. If I am fired because of discrimination, do I have an obligation to find other employment while my case is being reviewed by the Division?

Yes. In the event that you are ultimately successful in your claim, your damage award, if any, would be reduced to the extent that you did not minimize your damages by seeking other employment. If you are unable to find other employment, you must at least be able to provide detailed documentation of your attempts to do so.

**For more information,
contact the office nearest you.**

Atlantic City

26 Pennsylvania Avenue, 3rd Floor
Atlantic City, NJ 08401
(609) 441-3100 (Phone)
(609) 441-3578 (Fax)
(609) 441-7648 (TTY)

Camden

One Port Center
2 Riverside Drive, 4th Floor
Camden, NJ 08103
(856) 614-2550 (Phone)
(856) 614-2568 (Fax)
(856) 614-2574 (TTY)

Jersey City

574 Newark Avenue, 3rd Floor
Jersey City, NJ 07306
(201) 798-5168 (Phone)
Wednesdays 9 - 5

Newark

31 Clinton Street, 3rd Floor
Newark, NJ 07102
(973) 648-2700 (Phone)
(973) 648-4405 (Fax)
(973) 648-4678 (TTY)

Paterson

100 Hamilton Plaza, 8th Floor
Paterson, NJ 07501
(973) 977-4500 (Phone)
(973) 977-4511 (Fax)
(973) 977-1955 (TTY)

Trenton

140 East Front Street, 6th Floor
Trenton, NJ 08625-0090
(609) 292-4605 (Phone)
(609) 984-3812 (Fax)
(609) 292-1785 (TTY)

NJ Division on Civil Rights

**Know Your
Civil Rights for
Employment**

**Answers to your questions
about the
NJ Law Against Discrimination**



JON S. CORZINE
Governor

ANNE MILGRAM
Attorney General

J. FRANK VESPA-PAPALEO
Director, NJ Division on Civil Rights

www.NJCivilRights.org

Office of the Attorney General
Department of Law and Public Safety

1. What does the Division on Civil Rights enforce?

The Division on Civil Rights enforces the New Jersey Law Against Discrimination and the Family Leave Act.

2. What does the NJ Law Against Discrimination prohibit?

The NJ Law Against Discrimination prohibits discrimination on the bases of race, creed (religion), color, national origin, age, sex, gender identity or expression, marital status, civil union status, domestic partner status, ancestry, handicap, AIDS and HIV infection, nationality, affectional or sexual orientation, familial status, atypical hereditary cellular or blood trait, and liability for military service. The law protects individuals against discrimination in employment, housing, public accommodations and certain business transactions. The law also prohibits certain nursing homes or intermediate care facilities from discriminating against an individual because he or she is eligible for Medicaid. The law further protects those who rent apartments from being denied a rental solely because of their source of lawful income, such as a Section 8 HUD voucher.

3. What are my rights under the state's Family Leave Act?

The state's Family Leave Act requires certain employers to provide eligible employees up to 12 weeks of unpaid family leave for the care of a newly born or adopted child or a family member with a serious health condition.

4. What can I do if I believe my rights have been violated under these laws?

You may file a complaint with us within 180 days of the date of the alleged violation. The complaint must be filed at one of our five regional offices (check the back of this brochure for the location nearest you). You may also file a complaint in New Jersey Superior Court within two years of the alleged violation.

5. How is a complaint handled by the Division?

When you file a complaint with the Division, your complaint is assigned to a Division investigator. The Division investigator serves the complaint to the individual and/or entity (respondent) alleged to have discriminated against you or violated your rights. Within 20 days of being served the complaint, the respondent must file an answer. The Division also offers the parties an opportunity to send the case to a trained mediator as a way to provide for early dispute resolution.

The investigator assigned to your case will conduct an investigation which may include interviews, field visits, and the securing of medical and/or employment records. Based on the investigation, the investigator makes a recommendation to the Division's Director as to whether probable cause or no probable cause exists to believe the allegations of discrimination are true.

6. What if the Division's investigation reaches a finding of Probable Cause?

If there is a finding of Probable Cause, the complainant (the person who filed the complaint) and the respondent are notified of the finding and the Division schedules a conciliation conference with the respondent or with all parties to the case. The purpose of the conciliation is to determine if the respondent is interested in settling the matter without the need for further proceedings. If the Division can work out an agreement with the respondent and the complainant accepts the agreement, then the matter will be closed.

If an agreement cannot be reached, the Director will bring the case to the Office of Administrative Law for a hearing. Either a Deputy Attorney General will be assigned to represent the complainant in the case or the complainant may retain private counsel. After the hearing, the Administrative Law Judge (ALJ) will render an initial decision which can be accepted, modified, or rejected by the Director.

If the initial decision is accepted, the Director will issue an order adopting the decision. If the initial decision is rejected, the Director may reverse the findings of the ALJ or send back the case to the ALJ for further consideration.

7. If my case is successful, what remedies and/or damages can the Director order?

The Director, among other things, can order the respondent to: cease and desist from engaging in the discriminatory conduct; hire, promote, or reinstate the complainant into a position; pay the complainant back or pay damages for pain and humiliation; reimburse the complainant for loss of fringe benefits; and restore health benefits, pension benefits, and/or seniority rights. The Director may also award attorney's fees and assess penalties of up to \$10,000 for the first offense and \$25,000 for the second offense and \$50,000 for the third offense.

The final order of the Director may be appealed to the Appellate Division of the New Jersey Superior Court in Trenton. A notice of appeal must be filed with the Appellate Division within 45 days of the Director's Order.

8. What if the Division reaches a finding of No Probable Cause in my case?

You may file an appeal of the Division's finding with the Appellate Division. The notice of appeal must be filed within 45 days of the Division's finding.

In a few circumstances and with time constraints, the Division may reconsider a finding of No Probable Cause or reopen the matter.

9. Can I go directly to court with my complaint?

Yes, under the law, you may initiate an action in Superior Court without first filing a complaint with the Division. Prosecution of your claim in Superior Court, however, bars the filing of a complaint with the Division or the further processing of a complaint which has already been filed with the Division.

If you file an action in Superior Court, you are entitled to a jury trial and, if you win your case, a judge or jury may award you compensatory damages (such as back pay, reinstatement, promotion, pain and humiliation) and punitive damages.