

Getting the *EDGE* in Compliance: *Equality & Diversity* for *GLBT Employees*

On the Cutting Edge of Protecting the Rights of Sexual & Gender Minorities

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- * Voluntary Self-Assessment Checklist for Employers
- * Glossary of Gay, Lesbian, Bisexual & Transgender Terminology
- * New Jersey Anti-Discrimination Posters
- * Fact Sheets on Discrimination Against Sexual & Gender Minorities
- * Attorney General Advisory Opinions on New Jersey Civil Union Act



J. Frank Vespa-Papaleo, Esq. Director
New Jersey Division on Civil Rights

Dear Employers,

Perhaps the most progressive law of its kind in the nation, the New Jersey Law Against Discrimination prohibits, among other things, discrimination on the basis of race, creed, color, national origin, age, ancestry, nationality, marital or domestic partnership or civil union status, sex, gender, gender identity or expression, disability, liability for military service, affectional or sexual orientation, atypical cellular or blood trait, and genetic information. Recent amendments to the law have been enacted to ensure equal opportunity to *sexual minorities*—on the basis of sexual orientation, domestic partnership status, civil union status, and *gender minorities*—on the basis of gender identity or expression.

With these changes there may be some confusion and a need for guidance. In our effort to ensure that employers operating in New Jersey have the tools to make their work environments inclusive and diverse workplaces that are free from unlawful discrimination against sexual and gender minorities, the Division on Civil Rights (“Division” or “DCR”) has developed this free comprehensive book called ***Getting the E.D.G.E. in Compliance: Equality and Diversity for GLBT Employees***, which includes a voluntary checklist and guidance for employers focusing on legal compliance and suggested diversity best practices in the employment of gay, lesbian, bisexual and transgender (GLBT) employees.

The Division intends this free book to be a voluntary and practical tool for all employers (including for-profit, non-profit, and government employers) and other entities covered by the New Jersey Law Against Discrimination (LAD) and the New Jersey Family Leave Act (FLA). By following the self-assessment checklist and developing and implementing best practices with appropriate policies and procedures, by posting the anti-discrimination posters included, and sharing the fact sheets you can help prevent discrimination in the workplace, foster an inclusive environment, and reduce the likelihood that a discrimination complaint is filed against you or your organization.

This publication is not intended to take the place of professional legal advice. Neither the State of New Jersey nor any agency shall be held liable for any losses caused by reliance on the accuracy, reliability or timeliness of such information. Use of this publication does not guarantee the absence of unlawful discrimination in the workplace. Neither DCR nor the State of New Jersey shall be held liable by use of this publication in the event of an employer and/or employee’s reliance on the publication or violation of applicable law.

This publication is divided into two parts, the Self-Assessment checklist and an Appendix. The Checklist contains sections regarding: (1) policies and actions required for compliance, (2) best practices policies and actions suggested for compliance; and (3) what to do with the self-assessment results. Be advised that use of this publication is strictly voluntary and there is no need to return a copy of your completed assessment to the Division on Civil Rights. However, we do encourage that you share this information with others and you can feel to copy and circulate its contents, including the appendix, with all the members of your organization.

Please note that this publication is specific to employers, business owners, human resource managers, diversity and inclusion personnel, trainers, and other individuals and entities that want concrete information about how to comply with the law. As used in this publication, the term “company” means all entities in the State of New Jersey that are subject to the LAD and/or FLA.

Also, please note that this is an interim interpretive statement and a work in progress. Please let the Division know about your experience using this instrument, and any suggestions for improvement. For further information and to provide feedback and suggestions, please contact Bureau of Policy Staff Attorney Estelle Bronstein, Esq. at Estelle.Bronstein@NJCivilRights.org or (609) 292-3406. For additional guidance and information you may go to the Division’s website at www.NJCivilRights.org. We hope this will assist you in cutting edge compliance and best practices.

Sincerely,
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VOLUNTARY SELF-ASSESSMENT CHECKLIST

This voluntary checklist may be used to review your company's policies and practices. Section 1 focuses on issues that relate to the compliance with the state law. Section 2 focuses on broader issues that help many top employers engage in diversity and inclusion "best practices." The final section will assist in developing an action plan to enhance legal compliance as well as stimulate "best practices" with regard to employing GLBT employees. Please refer to the "Glossary of Terms" in the Appendix as well as those cited from New Jersey law.

Name of Company or Business: _____

Person/Title Completing Evaluation: _____

Date: / /

DIRECTIONS: Please complete this form by checking either the Yes or No boxes. Responses should be based on supporting documentation that your company or business keeps on file. Also, **note the following statutory definitions are used throughout this publication:**

“Affectional or sexual orientation” means “male or female heterosexuality, homosexuality or bisexuality by inclination, practice, identity or expression, having a history thereof or being perceived, presumed or identified by others as having such orientation.” N.J.S.A. 10:5-5(hh).

“Heterosexuality” means “affectional, emotional or physical attraction or behavior which is primarily directed towards persons of the other gender.” N.J.S.A. 10:5-5(ii).

“Homosexuality” means “affectional, emotional or physical attraction or behavior which is primarily directed towards persons of the same gender.” N.J.S.A. 10:5-5(jj).

“Bisexuality” means “affectional, emotional or physical attraction or behavior which is directed towards persons of either gender.” N.J.S.A. 10:5-5(kk).

“Gender identity or expression” means “having or being perceived as having a gender related identity or expression whether or not stereotypically associated with a person’s assigned sex at birth.” N.J.S.A. 10:5-5(qq).¹

“Domestic partnership” means “a domestic partnership established pursuant to N.J.S.A. 26:8A-4.”

“Civil union” means “a legally recognized union of two eligible individuals established pursuant to the Civil Union Act, N.J.S.A. 37:1-28, et al.” N.J.S.A. 10:5-5(ss).

Also, note that the New Jersey Law Against Discrimination applies to virtually all “employers” that operate in New Jersey, regardless of how many individuals it employs. (For example, the LAD does *not* apply to federal government agencies that employ persons in New Jersey). The LAD was recently amended to now requires that same-sex civil union partners are to be treated exactly the same as heterosexual married employees, with a few very limited exceptions, which will be explained later in this publication.

The New Jersey Family Leave Act, on the other hand, *only* specifically applies to employers with 50 or more employees. Those employers subject to the FLA must now provide the same protections to same-sex civil union partners as it does to heterosexual married individuals.

¹ While the New Jersey Law Against Discrimination (LAD) describes “gender identity or expression” as “having or being perceived as having a gender related identity or expression whether or not stereotypically associated with a person’s assigned sex at birth,” N.J.S.A. 10:5-5(qq), it is important to note that the term may be unfamiliar to many people. It does not refer to an individual’s sexual orientation.

The term “sex” refers to the classification of people as male or female. At birth, children are assigned a sex based on one or more characteristics including genitals, chromosomes, internal reproductive organs and hormones.

In general terms, “gender expression” refers to the outward manifestation of an individual’s gender, including the individual’s dress, mannerisms, speech patterns and appearance.

The term “gender identity” means a person’s innate, deeply-felt psychological identification or sense-of-self as a man or woman, which may or may not correspond to the person’s external body or assigned sex at birth.

The term “transgender” is often used as an umbrella term to refer to a variety of individuals whose gender identity or expression might diverge from stereotypical societal expectations regarding how that person’s birth-assigned sex should identify or express their gender. Individuals who are sometimes referred to as “transsexuals,” “cross-dressers,” “intersexed,” or “gender non-conforming,” are examples of persons who may be referred to more generally as “transgender.” **But note that some terms are deemed insensitive so please read this entire publication. Be sure to consult the Appendix for more information on these terms.**

SECTION 1: CHECKLIST FOR COMPLIANCE

► NOTE: Where applicable, the policies and actions are required for compliance with the New Jersey Law Against Discrimination (LAD) and the New Jersey Family Leave Act (FLA).

HIRING and RECRUITMENT

- 1 Our company lists affectional or sexual orientation, civil union and domestic partnership status, and gender identity or expression*, as part of our non-discrimination policy.

Yes

No

ACTION TAKEN _____

- 2 Our company engages in employment practices (*e.g. hiring, promotion, assignment, training, mentoring, etc.*) that eliminate discrimination on the basis of all protected classes, including affectional or sexual orientation, civil union and domestic partnership status, and gender identity or expression.

Yes

No

ACTION TAKEN _____

- 3 Our company includes affectional or sexual orientation, civil union and domestic partnership status, and gender identity or expression as part of our non-discrimination policies and practices when publicizing information about our company, including when engaging in such publicity in languages other than English.

Yes

No

ACTION TAKEN _____

- 4 Our company has reviewed our standard employment interview questions and application forms and removed any biased questions, as well as questions that might be used in a discriminatory way after an offer of employment has been made (*e.g., questions about a candidates sexual "lifestyle" or "sexual preference," or the use of the terms "husband or wife" without inclusion of the words "partner" or "spouse," etc.*).

► NOTE: it is illegal to ask about an applicant's marital status, sexual orientation, sex, gender, race, religion, etc.

Yes

No

ACTION TAKEN _____

EMPLOYEE EDUCATION

- 1 Have all current employees been made aware of the new protections of the law, and does management have a record showing that employees have been made aware of such protections (such as signed receipts of employee handbook, training sessions, etc.)?

Yes

No

ACTION TAKEN _____

If Yes, how have employees been made aware:

Announcement in Company Newsletter

Announcement Posting

Announcement in Staff Meeting

Management Training

Employee Training

Other - Please list:

- 2 Our company has a published internal grievance procedure providing for prompt and equitable resolution of employee complaints alleging discrimination based on affectional or sexual orientation, civil union and domestic partnership status, and gender identity or expression.

Yes

No

ACTION TAKEN _____

- 3 Our company has posted the State of New Jersey's 2007 revised Anti-Discrimination Posters* based on "Discrimination in Employment," "Discrimination in Public Accommodations," and the "New Jersey Family Leave Act" in accordance with New Jersey regulations, which includes information about discrimination on the basis of affectional or sexual orientation, civil union and domestic partnership status, and gender identity or expression.

► *NOTE: The New Jersey Anti-Discrimination posters are available for free downloading and printing on the Division's website at www.NJCivilRights.org. Entities that fail to properly post the anti-discrimination or Family Leave Act posters are subject to a penalty of up to \$10,000 for a first violation for each location or worksite where a poster is required. See N.J.A.C. 13:8-1.2 for Employment Discrimination Poster, 13:8-1.4 for Public Accommodations Poster, and 13:8-2.2 for the Family Leave Act poster.

Yes

No

ACTION TAKEN _____

HUMAN RESOURCES

- 1 Our company's human resources department has updated policies and procedures for investigating and resolving complaints of discrimination based on someone's real or perceived affectional or sexual orientation, civil union or domestic partnership status, and gender identity or expression.

Yes

No

ACTION TAKEN _____

- 2 Our company's human resources department has updated policies and procedures for handling family leave (under the new Jersey Family Leave Act) to include an employee's eligibility to take FLA-covered leave for a civil union partner with a serious health condition.
 Yes No ACTION TAKEN _____
- 3 Our company provides education or training for managers and supervisors including an overview of our non-discrimination and family leave policies covering affectional or sexual orientation, civil union or domestic partnership status, and gender identity or expression.
 Yes No ACTION TAKEN _____
 Date of Last Training: ____/____/____ Date of Next Training: ____/____/____
- 4 Our human resources department has a standard procedure regarding the use of a preferred name for employees (such as an alias or nickname) on company email, documents, voice mail, name tags, etc., and applies it equally to employees regardless of their affectional or sexual orientation, civil union or domestic partnership status, and gender identity or expression.
 Yes No ACTION TAKEN _____
- 5 Our human resources department has a standard procedure that applies to all employees to change their legal names on employment-related documents.
 Yes No ACTION TAKEN _____
- 6 Our human resources department has policies in place that protect the confidentiality of employees who are transitioning* or who have transitioned (e.g. the human resources department will not improperly disclose confidential information about an individual's transgender status including former name, legal gender, or medical status).
 ►*NOTE: "Transition" refers to the social and/or medical process transgendered people *may* undergo to assert their gender identity. The transition process can include changing one's name, changing one's preferred pronoun, taking hormones, and/r having gender reassignment surgery. Sometimes people will say a person is transitioning from "male-to-female," or vice versa. Please note that some persons find the quoted word offensive. They may prefer terms such as "gender affirmation," the "gender-affirmation process," "genital reconstruction surgery," and "gender-affirmed woman or male." When dealing with employees going through this process, ask the employees which terminology they prefer.
 Yes No ACTION TAKEN _____
- 7 Our company is aware that a transgender employee may have a legal name or legal sex (male or female) designation that is not consistent with the employee's gender identity or expression. Our company will not consider a transgender employee to be acting in a fraudulent manner if in good faith (a) the employee discloses this conflicting information or (b) on an application for employment the employee marked off the sex and used the name that matches the employee's gender identity or expression.
 Yes No ACTION TAKEN _____

COMPARABLE COMPENSATION, TERMS, AND CONDITIONS

►NOTE: Compensation, terms, and conditions must be provided equally regardless of an employee's affectional or sexual orientation, civil union or domestic partnership status, or gender identity or expression. In addition, unmarried couples must be provided benefits equally (e.g., a company would not be in compliance to offer child care benefits to unmarried opposite-sex couples, but not offer the same benefit to unmarried same-sex couples).

In addition, there are several federal laws that may pre-empt or supersede some requirements of New Jersey law with regard to certain benefits (e.g., group health insurance). You should consult with the company's attorney about these issues, as they are very complex.

- 1 Our company offers benefits (including sick leave, bereavement leave, etc.) equally to married opposite-sex couples, domestic partners or same-sex civil union partners.
 Yes No ACTION TAKEN _____
- 2 Our company offers family leave benefits under the New Jersey Family Leave Act (the right to take time off to care for a sick child, parent, spouse, or civil union partner, etc.) with a serious health condition equally to married opposite-sex couples and to same-sex civil union partners. (Note: this question applies to employers with 50 or more employees who are subject to the FLA).
 Yes No ACTION TAKEN _____
- 3 Our company's policies and actions equally allow for the assignment, transfer, promotion and compensation of employees without regard to such employees' affectional or sexual orientation, civil union or domestic partnership status, and gender identity or expression.
 Yes No ACTION TAKEN _____
- 4 Our company does not take affectional or sexual orientation, civil union or domestic partnership status, and gender identity or expression into account when determining a reduction-in-hours, lay-off, reduction-in-force, or termination of employment.
 Yes No ACTION TAKEN _____
- 5 Our company extends health insurance, life insurance, and other benefits (bereavement leave, etc.) equally to married opposite-sex couples and to same-sex civil union partners.
 Yes No ACTION TAKEN _____
- 6 Our company offers child care benefits (such as child care services) equally to married opposite-sex couples, to domestic partners, and to same-sex civil union partners with children.
 Yes No ACTION TAKEN _____

- 7 Our company offers other benefits such as discounts (e.g., auto insurance) and facilities (e.g., gym membership) equally to married opposite-sex couples, domestic partners, and to same-sex civil union partners.
 Yes No ACTION TAKEN _____
- 8 Our company pays equally for the relocation or travel expenses of married opposite-sex couples, domestic partners and same-sex civil union partners.
 Yes No ACTION TAKEN _____
- 9 Our company policy allows for transgender employees to use the restrooms and locker rooms matching the gender they publicly present as in the workplace. For example, if an employee regularly and consistently dresses as a woman at work and uses a female name, she is permitted to use the female restroom, or vice versa. Alternatively, all employees are permitted to use unisex restrooms.
 Yes No ACTION TAKEN _____
10. Our company policies allow for a transgender person to take medical leave in the same manner as other employees needing medical leave. For example, if an employer does not provide sick leave, the employer should provide disability leave without pay to transgender employees in the same manner that disability leave is provided to non-transgender employees seeking other types of medical care.
 Yes No ACTION TAKEN _____
11. Our company policies permit employees to comply with dress codes in an appropriate manner that is consistent with their gender identity or expression. These dress codes do not unduly burden employees of one sex, or employees who are transitioning (e.g. if women are allowed to wear skirts to work, a male transitioning to female—that is, a gender-affirmed woman— should also be allowed to wear a skirt).
 Yes No ACTION TAKEN _____
- 12 Our company policies and culture equally allows for the display of photos of same-sex and opposite-sex couples, delivery of flowers, and permits visits to company facilities by employees' spouses, civil union partners or domestic partners.
 Yes No ACTION TAKEN _____
- 13 Our company policies equally provide services to all customers or clients regardless of real or perceived affectional or sexual orientation, civil union or domestic partnership status, and gender identity or expression.
 Yes No ACTION TAKEN _____
- 14 Our company equally allows for the creation of and membership in company sponsored affinity or employee resource groups, including groups related to GLBT issues (in the same way that we allow for the creation of affinity groups for racial and ethnic minorities, women, persons with disabilities, etc.).
 Yes No ACTION TAKEN _____
- 15 Our company provides adoption and parenting benefits to all employees, without regard to affectional or sexual orientation, civil union or domestic partnership status, and gender identity or expression.
 Yes No ACTION TAKEN _____
- 16 Our company has a policy to avoid the creation of a hostile work environment, including prohibiting harassment based on real or perceived affectional or sexual orientation, civil union or domestic partnership status, and gender identity or expression.
 Yes No ACTION TAKEN _____
- 17 To the extent our company solicits feedback from employees, we also ensure that we invite feedback from GLBT employees and consider such feedback in our implementation plan.
 Yes No ACTION TAKEN _____
- 18 Our company policies and culture equally allow for workplace celebrations (such as a baby shower, wedding shower, or civil union shower) for all persons, without regard to affectional or sexual orientation, civil union or domestic partnership status, and gender identity or expression.
 Yes No ACTION TAKEN _____

SECTION 2: CHECKLIST FOR SUGGESTED BEST PRACTICES FOR INCLUSION

► NOTE: Employers have the opportunity to go beyond strict compliance by engaging in employer diversity best practices. Doing so can help create a diverse, inclusive, open work environment, limit claims of discrimination, and foster good relations with employees and the community. Such best practices can also enhance profitability and increase shareholder and customer support. The best practices policies and actions below are recommended for compliance, but are not necessarily required for minimal compliance with the law. However, many of the nation's most profitable businesses utilize these inclusion best practices.

WORKPLACE DIVERSITY AND INCLUSION

- 1 Our company has adopted a diversity or inclusion program or plan that includes gay, lesbian, bisexual, and transgender (GLBT) people, and recognizing the differences between sexual minorities (gay, lesbian, bisexual) and gender minorities (transgender). However, note that some gender minorities employees do not wish to be called "transgender." Also, some employees find it offensive when an existing diversity initiative is simply expanded to include transgender employees, but the name and content of the program still reflects only gay, lesbian or bisexual concerns. Be sure to be fully inclusive of both sexual minorities and gender minorities.
Yes No ACTION TAKEN _____
- 2 Our company routinely disseminates information regarding our non-discrimination policies.
Yes No ACTION TAKEN _____
- 3 Our company's policies and culture reflect an open, welcoming environment and organizational culture.
Yes No ACTION TAKEN _____
- 4 Our company's policies and culture are such that the company respects differences in beliefs, cultures, sexual orientations, and gender identities and expressions.
Yes No ACTION TAKEN _____
- 5 Our employee assistance program is prepared to assist our GLBT employees as well as our employees who are friends and family members of GLBT people.
Yes No ACTION TAKEN _____
- 6 Our company has an alternative dispute resolution model (such as mediation program or specially-trained human resources personnel) in place should employees need to resolve a workplace dispute, including disputes regarding GLBT issues.
Yes No ACTION TAKEN _____
- 7 Our company's mediator(s)/HR personnel are sensitive to the needs and concerns of GLBT people and families in the workplace.
Yes No ACTION TAKEN _____
- 8 Our company website and other publications include information about all of our diversity initiatives including those relating to GLBT diversity and inclusion in the workplace.
Yes No ACTION TAKEN _____
- 9 Our company's marketing or advertising is inclusive of and sensitive to all minority groups, including members of the GLBT community.
Yes No ACTION TAKEN _____
- 10 Our company has reviewed and revised all of its forms and processes to ensure use of language sensitive to sexual and gender minorities (for example, check-off boxes that include (a) "partner" in addition to "spouse" and (b) "other" in addition to "male" and "female.")
Yes No ACTION TAKEN _____
- 11 Our company maintains and encourages a corporate giving program, which (a) includes donations to GLBT community organizations and (b) does not support organizations that refuse to support equality for sexual and gender minorities.
Yes No ACTION TAKEN _____
- 12 To the extent that our company recruits potential job applicants, we do include focusing on the recruitment of all minority groups, including members of GLBT community.
Yes No ACTION TAKEN _____
- 13 To the extent that our company has a supplier diversity program, we do include GLBT-owned businesses in our supplier diversity program.
Yes No ACTION TAKEN _____

BENEFITS

- 1 Our company offers benefits equally to registered domestic partners as it does to married opposite-sex couples and to same-sex civil union partners.
Yes No ACTION TAKEN _____
- 2 To the extent there are negative tax implications to our employees who are registered domestic partners or civil union partners, associated with including the partner as a plan beneficiary, we provide the employee with the extra funds to cover that additional tax expense, so that their insurance benefits are equally available to married and civil union partners.
Yes No ACTION TAKEN _____
- 3 Our company offers benefits equally to registered domestic partners as it does to married opposite-sex couples and to same-sex civil union partners.
Yes No ACTION TAKEN _____
- 4 Our company offers family leave benefits under the New Jersey Family Leave Act (the right to take time off to care for a sick child, parent, spouse, or civil union partner) not only to married opposite-sex couples and to same-sex civil union partners, but also to domestic partners. (Note: this question applies to employers with 50 or more employees).
Yes No ACTION TAKEN _____
- 5 Our company offers child care benefits (such as child care services) not only to married opposite-sex couples and to same-sex civil union partners with children, but also to domestic partners with children.
Yes No ACTION TAKEN _____
- 6 Our company offers discounts, such as auto insurance, and facilities, such as a gym membership, equally to not only married opposite-sex couples and to same-sex civil union partners, and also to domestic partners.
Yes No ACTION TAKEN _____
- 7 Our company equally pays for the relocation or travel expenses of not only married opposite-sex couples and to same-sex civil union partners, but also to domestic partners.
Yes No ACTION TAKEN _____
- 8 Our company provides health insurance coverage for the medical expenses incurred by employees with gender dysphoria, such as hormone therapy and gender-reassignment or genital-reconstruction surgery.
Yes No ACTION TAKEN _____
- 9 Our company's health insurance policies with insurance carriers do not include a "transsexual" exclusion.
Yes No ACTION TAKEN _____

PRACTICE CHANGES

- 1 Our company provided updated staff diversity training to upper level management, including an overview of our company policies and procedures with respect to non-discrimination based on real or perceived sexual orientation, civil union or domestic partnership status, and gender identity or expression.
Yes No ACTION TAKEN _____
- 2 Our company provided updated staff diversity training to all employees and volunteers, including an overview of our company policies and procedures with respect to non-discrimination based on real or perceived sexual orientation, civil union or domestic partnership status, and gender identity or expression.
Yes No ACTION TAKEN _____
- 3 Our company provided updated staff with a revised policy and procedure manual, including information about our policies regarding non-discrimination based on real or perceived sexual orientation, civil union or domestic partnership status, and gender identity or expression.
Yes No ACTION TAKEN _____
- 4 Our company developed a timetable with milestones to address or revise our Company's non-discrimination policy, including non-discrimination based on real or perceived sexual orientation, civil union or domestic partnership status, and gender identity or expression.
Yes No ACTION TAKEN _____

MONITOR INTERNAL COMPLIANCE

- 1 Our company tracks complaints of discrimination.
Yes No ACTION TAKEN _____
- 2 Our company handles all complaints of discrimination promptly and fairly.
Yes No ACTION TAKEN _____
- 3 Our company monitors implementation of the action plan.
Yes No ACTION TAKEN _____
- 4 Our company has explicit policies that allow employees to make complaints without fear of retaliation and provide for confidentiality to the maximum extent feasible. In addition, an employee can go outside his or her chain of command to make complaints in order to feel more secure.
Yes No ACTION TAKEN _____

EVALUATE SUCCESS

- 1 Our employees, from senior management to new hires, are made aware of and agree to adhere to our non-discrimination policy that includes sexual orientation, civil union or domestic partnership status, and gender identity or expression.
Yes No ACTION TAKEN _____
- 2 Since implementing this plan, our company feels better able to handle any challenges, claims of discrimination, or concerns regarding the sexual orientation, civil union or domestic partnership status, and gender identity or expression of our employees, volunteers, vendors, and clients.
Yes No ACTION TAKEN _____
- 3 Our company has received few internal complaints of discrimination based on sexual orientation, civil union or domestic partnership status, and gender identity or expression, and, when such complaints have been made, prompt investigations were undertaken and appropriate actions were taken.
Yes No ACTION TAKEN _____
- 4 When complaints arise, employees have several avenues of redress, including accessing support through an employee assistance program.
Yes No ACTION TAKEN _____

Appendix

REFERENCE LIST

Below are a number of organizations that provided useful information in the drafting of this publication. Feel free to access their websites to learn more.

■ DiversityInc.com	www.diversityinc.com
■ Gay & Lesbian Alliance Against Defamation	www.glaad.com
■ Gender Rights Advocacy Association of NJ	www.graanj.org
■ GLBT Section of the NJ State Bar Association	www.njsba.com
■ Human Rights Campaign	www.hrc.org
■ Industry Liaison Group – NJ	www.nationalilg.org
■ International Association of Official Human Rights Agencies	www.iaohra.org
■ National Association of Human Rights Workers	www.nahrw.org
■ National Center for Transgender Equality	www.nctequality.org
■ National Gay and Lesbian Task Force	www.thetaskforce.org
■ New Jersey Business & Industry Association	www.njbia.org
■ New Jersey Civil Union Review Commission	www.njcivilrights.org/curc
■ New Jersey Division on Civil Rights	www.NJCivilRights.org
■ New Jersey Office of the Attorney General	www.lps.state.nj.us
■ Out and Equal Workplace Advocates	www.outandequal.org
■ Washington State Human Rights Commission	www.hum.wa.gov

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GLOSSARY OF TERMINOLOGY

GENERAL GLBT GLOSSARY

The following Glossary is reprinted with permission of the Gay & Lesbian Alliance Against Defamation.

DEFINITIONS

Biphobia

Fear of bisexuals, often based on inaccurate stereotypes, including associations with infidelity, promiscuity and transmission of sexually transmitted diseases.

Bisexual

An individual who is physically, romantically, emotionally and/or spiritually attracted to men and women. Bisexuals need not have had equal sexual experience with both men and women; in fact, they need not have had any sexual experience at all to identify as bisexual.

Civil Union

Legal recognition of committed same-sex relationships in Connecticut, New Jersey & Vermont.

Closeted

Describes a person who is not open about his or her sexual orientation.

Domestic Partnership

Civil or legal recognition of a relationship between two people (domestic partners) that sometimes extends limited protections to them.

Gay

The adjective used to describe people whose enduring physical, romantic, emotional and/or spiritual attractions are to people of the same sex (e.g., gay man, gay people). In contemporary contexts, lesbian (n.) is often a preferred term for women. Avoid identifying gay people as "homosexuals".

Heterosexual Man / Woman

A person whose enduring physical, romantic, emotional and/or spiritual attraction is to people of the opposite sex. Also straight.

Heterosexism

The attitude that heterosexuality is the only valid sexual orientation. Often takes the form of ignoring lesbians, gay men and bisexuals. For example: a feature on numerous Valentine's Day couples that omit same-sex couples.

Homosexual

(see Offensive Terminology to Avoid) Outdated clinical term considered derogatory and offensive by many gay people. Gay and/or lesbian accurately describe people who are attracted to members of the same sex.

Homophobia

Fear of lesbians and gay men. Prejudice is usually a more accurate description of hatred or antipathy toward LGBT people.

Lesbian

A woman whose enduring physical, romantic, emotional and/or spiritual attraction is to other women. Avoid identifying lesbians as "homosexuals," a derogatory term.

Openly Gay

Describes people who self-identify as lesbian or gay in their public and/or professional lives. Also openly lesbian, openly bisexual, openly transgender.

Outing

The act of publicly declaring (sometimes based on rumor and/or speculation) or revealing another person's sexual orientation without his or her consent. Considered inappropriate by a large portion of the LGBT community.

Queer

Traditionally a pejorative term, queer has been appropriated by some LGBT people to describe themselves. Some value the term for its defiance and because it can be inclusive of the entire LGBT community. Nevertheless, it is not universally accepted even within the LGBT community and should be avoided unless quoting someone who self-identifies that way.

ALTERNATIVE DESCRIPTIVES

- **Offensive:** "homosexual" (n. or adj.)
- **Preferred:** "gay" (adj.); "gay man" or "lesbian" (n.)
- **Offensive:** "homosexual relations/relationship," "homosexual couple," "homosexual sex," etc.
- **Preferred:** "relationship" (or "sexual relationship"), "couple" (or, if necessary, "gay couple"), "sex," etc
- **Offensive:** "sexual preference"
- **Preferred:** "sexual orientation"
- **Offensive:** "gay lifestyle" or "homosexual lifestyle"
- **Preferred:** "lesbian," "gay," "bisexual"
- **Offensive:** "admitted homosexual" or "avowed homosexual"
- **Preferred:** "openly lesbian," "openly gay," "openly bisexual"
- **Offensive:** "gay agenda" or "homosexual agenda"
- **Preferred:** "lesbian and gay civil rights movement" or "lesbian and gay movement"
- **Offensive:** "special rights"
- **Preferred:** "equal rights" or "equal protection"

TRANSGENDER GLOSSARY

GENERAL TERMINOLOGY

Gender Identity

One's internal, personal sense of being a man or a woman (or a boy or girl.) For transgender people, their birth-assigned sex and their own internal sense of gender identity do not match.

Gender Expression

External manifestation of one's gender identity, usually expressed through "masculine," "feminine" or gender variant behavior, clothing, haircut, voice or body characteristics. Typically, transgender people seek to make their gender expression match their gender identity, rather than their birth-assigned sex.

Sexual Orientation

Describes an individual's enduring physical, romantic, emotional and/or spiritual attraction to another person. Gender identity and sexual orientation are not the same. Transgender people may be heterosexual, lesbian, gay, or bisexual. For example, a man who becomes a woman and is attracted to other women would be identified as a lesbian.

TRANSGENDER-SPECIFIC TERMINOLOGY

Transgender

An umbrella term for people whose gender identity and/or gender expression differs from the sex they were assigned at birth. The term may include but is not limited to: transsexuals, cross-dressers, and other gender-variant people. Transgender people may identify as female-to-male (FTM) or male-to-female (MTF). Use the descriptive term (transgender, transsexual, cross-dresser, FTM or MTF) preferred by the individual. Transgender people may or may not choose to alter their bodies hormonally and/or surgically.

Transsexual (also Transexual)

An older term which originated in the medical and psychological communities. Many transgender people prefer the term "transgender" to "transsexual." Some transsexual people still prefer to use the term to describe themselves. However, unlike transgender, transsexual is not an umbrella term, and many transgender people do not identify as transsexual. It is best to ask which term an individual prefers.

Transvestite

Derogatory: See Cross-Dressing

Transition

Altering one's birth sex is not a one-step procedure; it is a complex process that occurs over a long period of time. Transition includes some or all of the following cultural, legal and medical adjustments: telling one's family, friends, and/or co-workers; changing one's name and/or sex on legal documents; hormone therapy; and possibly (though not always) some form of surgical alteration.

Sex Reassignment Surgery (SRS) Refers to surgical alteration, and is only one small part of transition (see Transition above). Preferred term to "sex change operation." Not all transgender people choose to or can afford to have SRS. Journalists should avoid overemphasizing the importance of SRS to the transition process.

Cross-Dressing

To occasionally wear clothes traditionally associated with people of the other sex. Cross-dressers are usually comfortable with the sex they were assigned at birth and do not wish to change it. "Cross-dresser" should NOT be used to describe someone who has transitioned to live full-time as the other sex, or who intends to do so in the future. Cross-dressing is a form of gender expression and is not necessarily tied to erotic activity. Cross-dressing is not indicative of sexual orientation.

Gender Identity Disorder (GID)

A controversial DSM-IV diagnosis given to transgender and other gender-variant people. Because it labels people as "disordered," Gender Identity

Disorder is often considered offensive. The diagnosis is frequently given to children who don't conform to expected gender norms in terms of dress, play or behavior. Such children are often subjected to intense psychotherapy, behavior modification and/or institutionalization. Replaces the outdated term "gender dysphoria."

Intersex

Describing a person whose biological sex is ambiguous. There are many genetic, hormonal or anatomical variations which make a person's sex ambiguous (i.e., Klinefelter Syndrome, Adrenal Hyperplasia). Parents and medical professionals usually assign intersex infants a sex and perform surgical operations to conform the infant's body to that assignment. This practice has become increasingly controversial as intersex adults are speaking out against the practice, accusing doctors of genital mutilation.

TRANSGENDER TERMINOLOGY TO AVOID

Problematic Terminology

- **Problematic:** "transgenders," "a transgender"
- **Preferred:** "transgender people," "a transgender person"

- **Problematic:** "transgendered"
- **Preferred:** "transgender"

- **Problematic:** "sex change," "pre-operative," "post-operative"
- **Preferred:** "transition"

- **Problematic:** "hermaphrodite"
- **Preferred:** "intersex person"

Defamatory Terminology

Defamatory: "deceptive," "fooling," "pretending," "posing," "masquerading", "she-male," "he-she," "it," "trannie," "tranny," "gender-bender".

NAMES & PRONOUN USAGE

We encourage you to use a transgender person's chosen name. Often transgender people cannot afford a legal name change or are not yet old enough to change their name legally. They should be afforded the same respect for their chosen name as anyone else who lives by a name other than their birth name (e.g., celebrities).

We also encourage you to ask transgender people which pronoun they would like you to use. A person who identifies as a certain gender, whether or not they have taken hormones or had surgery, should be referred to using the pronouns appropriate for that gender.

If it is not possible to ask the person which pronoun he or she prefers, use the pronoun that is consistent with the person's appearance and gender expression. For example, if the person wears a dress and uses the name "Susan," feminine pronouns are appropriate.

It is never appropriate to put quotation marks around either the transgender person's chosen name or the pronoun that reflects their gender identity.

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New Jersey
Anti-Discrimination
Posters

Please ensure that these poster are prominently displayed at all work sites and place of public accommodations in accordance with the New Jersey Administrative Code. They can be downloaded for free at www.NJCivilRights.org.

New Jersey Law Prohibits **Discrimination** in **Employment**

- ON THE BASIS OF:** Race, Creed, Color, National Origin, Age, Ancestry, Nationality, Marital or Domestic Partnership or Civil Union Status, Sex, Gender Identity or Expression, Disability, Liability for Military Service, Affectional or Sexual Orientation, Atypical Cellular or Blood Trait, Genetic Information (including the refusal to submit to genetic testing)
- BY:** Private or State and Local Government Employers, Employment Agencies, or Labor Unions
- WITH RESPECT TO:** Hiring, Promotion, Transfer, Demotion, Termination, Salary, Benefits, Other Privileges, Conditions or Terms of Employment, Layoff, Harassment, Apprenticeship and Training Programs, Job Referrals, or Union Membership
- OR:** In Retaliation for Filing a Complaint, Participating or Testifying in Any Proceedings or for Opposing Any Acts Forbidden under the New Jersey Law Against Discrimination
- REMEDY MAY INCLUDE:** An Order Restraining Unlawful Discrimination, Back Pay, Damages for Pain and Humiliation Experienced as a Result of Unlawful Discrimination, Punitive Damages, and Attorney's Fees

It is also unlawful to publish employment advertisements which discriminate against persons in violation of the New Jersey Law Against Discrimination, N.J.S.A. 10:5-1 et seq.

**Violations Should Be Reported To the Nearest Office
of the NJ Division on Civil Rights or Call Toll Free at 866-405-3050**

Atlantic City

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

Camden

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

Jersey City

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

Newark

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

Paterson

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

Trenton

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

www.NJCivilRights.org

The regulations of the New Jersey Division on Civil Rights require that all employers, employment agencies and labor organizations who are covered by the New Jersey Law Against Discrimination shall display this official poster in places easily visible to all employees and applicants. N.J.A.C. 13:8-1.2.



Anne Milgram
Attorney General



Jon S. Corzine
Governor



New Jersey Law Prohibits **Discrimination** in places of **Public Accommodation**

- ON THE BASIS OF:** Race, Creed, Color, National Origin, Ancestry, Nationality, Marital or Domestic Partnership or Civil Union Status, Sex, Gender Identity or Expression, Affectional or Sexual Orientation, or Disability
- BY:** A Proprietor, Manager, Owner, Superintendent, Lessee, Agent or Employee
- WITH RESPECT TO:** The Services, Facilities, Privileges, or Accommodations Provided by Public Accommodations (whether or not it has a building, headquarters, office or other place). Public Accommodations include, but are not limited to, schools, government buildings, courts, restaurants, taverns, libraries, hotels, gymnasiums, theaters and hospitals.
- REMEDY MAY INCLUDE:** An Order Restraining Unlawful Discrimination, Reimbursement for Financial Loss, Damages for Pain and Humiliation Experienced as a Result of Unlawful Discrimination, Punitive Damages, and Attorney's Fees

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The regulations of the New Jersey Division on Civil Rights require that all places of public accommodation who are covered by the New Jersey Law Against Discrimination shall display this official poster in places easily visible to all persons seeking or using the accommodations. N.J.A.C. 13:8-1.4.



Anne Milgram
Attorney General



Jon S. Corzine
Governor



J. Frank Vespa-Papaleo
Director

The New Jersey

Family Leave Act

The New Jersey Family Leave Act (N.J.S.A. 34:11B-1, et seq.) requires that most employees who have worked at least 1,000 hours during the previous 12 months for an employer which employs 50 or more employees are eligible to receive an unpaid leave of absence for a period not to exceed 12 weeks in a 24 month period.

Leave under the NJ Family Leave Act may be taken in connection with the birth or adoption of a child, or for the care of a family member (child, parent, spouse or one partner in a civil union couple) with a serious health condition. Leave may not be taken under this act for the employee's own health condition.

Family leave granted under the Family Leave Act is in addition to, and separate from, any rights granted under the state "Temporary Disability Benefits Law." Employees may also be eligible for additional leave under the federal Family and Medical Leave Act.

Employees eligible to take leave under the NJ Family Leave Act must provide prior notice to the employer. The employer has the right to request that an employee provide a certification issued by a health care provider in order to ensure that the employee meets the eligibility requirements.

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Anne Milgram
Attorney General



Jon S. Corzine
Governor

CIVIL RIGHTS

J. Frank Vespa-Papaleo
Director

Division on Civil Rights

Fact Sheets

These Fact Sheets are meant to assist in providing guidance to employees, employers, and others. They are not meant to provide all-inclusive legal advice, but, rather, helpful information in an easy-to-read format. For more detailed legal information please consult legal counsel. The Fact Sheets, along with others on issues of discrimination on the basis of race, creed, national origin, sex, disability, and other protected basis, are available at www.NJCivilRights.org.



Sexual Orientation & Discrimination

Does New Jersey law protect people from discrimination on the basis of sexual orientation?

Yes. Although Federal law does not extend protection in this area, the New Jersey Law Against Discrimination prohibits discrimination based on sexual or affectional orientation. This means that it is against the law for you to be treated differently or otherwise denied the rights and privileges extended to others on the basis of sexual orientation. The law also forbids discrimination on the basis of "perceived" sexual orientation, meaning that the Law protects you if you are subjected to discrimination because someone makes an erroneous presumption about your sexual orientation.

The law is equally applicable to men and women. The sexual orientations specifically included are:

- heterosexuality, which is attraction to people of the opposite gender
- homosexuality, which is attraction to people of the same gender

What kinds of discrimination are illegal?

The law protects you against discrimination in four primary areas: Employment, Access to Public Places, Business Transactions and Housing.

Unlawful Employment Discrimination

Examples of illegal employment discrimination based on sexual orientation include:

- refusal to hire
- firing you or forcing you to retire
- harassment
- unequal salary or other terms, conditions or privileges of employment

Exception

The law does not require employers to offer insurance and other fringe benefits to unmarried couples, including same-sex partners of employees, even if they provide them for married couples.

Places of Public Accommodation

Examples of places of public accommodation in which sexual orientation discrimination is not allowed include places generally open to the public where goods and services are provided. This includes restaurants, movie theaters, stores, camps, organizations, schools, professional offices (such as doctors and lawyers), and other facilities.

Exception

The law does not consider private clubs or schools operated or maintained by a bona fide religious or sectarian institution to be places of public accommodation.

Housing

Individuals are protected from discrimination in the purchase or rental of real estate. This means that a landlord, realtor, rental agent, or seller may not refuse to make available, show, list, sell, or rent a house, apartment, other dwelling unit or commercial property because of any presumptions or actual knowledge of your sexual orientation.

What can I do if I am subjected to sexual orientation discrimination?

When the parties are unable to resolve a dispute themselves, the law provides two basic ways to seek relief.

- **Judicial remedy:** With or without the assistance of an attorney, an individual can file a complaint and try his or her case in New Jersey Superior Court. A Superior Court action must be filed within two years from the act of discrimination.
- **Administrative remedy:** An alternative is to file a complaint with the New Jersey Division on Civil Rights. This type of complaint must be filed within 180 days of the act of discrimination. An initial evaluation will determine if you state a claim for relief under the law, and then the Division will conduct an investigation into your allegations. If the investigation shows enough evidence to support your complaint, 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 that hearing, the Director of the Division on Civil Rights will make a final decision as to whether unlawful discrimination has been proven and damages are appropriate. Other than fees for a private attorney, there is no cost to the individual for these services.
- **Relief available:** The Division may impose penalties of up to \$10,000 for first violations, up to \$25,000 for a second violation in 5 years, and up to \$50,000 for third and subsequent offenses within 7 years. The Division or the Superior Court may award back pay, attorney fees and compensatory damages, while only the Superior Court may award punitive damages. The Department of Law & Public Safety, through its Division on Civil Rights, is responsible for enforcing the Law Against Discrimination. To complain of sexual orientation discrimination, contact the nearest Division regional office.



Jon S. Corzine
Governor



Anne Milgram
Attorney General



J. Frank Vespa-Papaleo
Director

The **NJ Office of the Attorney General/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** • TDD#: (609) 441-7648
Fax: (609) 441-3578

Camden Regional Office:

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Fax: (856) 614-2568

Newark Regional Office:

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Fax: (609) 984-3812

Visit our web site at www.NJCivilRights.org



Gender Identity & Expression

Does New Jersey law protect people from discrimination based on gender identity or expression?

Yes. Although Federal law does not protect in this area, the New Jersey Law Against Discrimination (LAD) clearly prohibits (*except as gender stereotyping*) discrimination based on gender identity or expression. This means that it is against the law for you to be harassed or denied rights and privileges extended to others because of your gender identity or expression or your transgender status. These protections apply to a broad range of people, including but not limited to people who express a gender that does not match their birth certificate, people who change some or all of their sex characteristics through hormones and/or surgery, and people who dress differently than the norm for their sex designated at birth.

What kinds of discrimination are prohibited?

New Jersey law protects you against discrimination in four primary areas:

Employment

It is unlawful for any employer or labor organization to discriminate against an employee or applicant because of gender identity or expression. This means it is unlawful to consider an applicant's or employee's actual or perceived gender identity or expression when making employment decisions, including:

- Deciding whether to interview or hire an applicant; Deciding whether to promote, transfer or discharge an employee;

- Setting job assignments, pay levels, employee benefits or other terms, conditions or privileges of employment.

It is also unlawful to permit **workplace harassment** based on actual or perceived gender identity or expression.

Public Accommodations

Discrimination and harassment are prohibited in places and organizations that are open to some segment of the public, including but not limited to stores, restaurants, hotels, theaters, sports facilities, hair-cutting establishments, medical offices, government offices and most schools. (Exception: Schools operated or maintained by a bona fide religious or sectarian institution, as well as private clubs, are exempt from the LAD.)

This means, for example, it is unlawful to consider a person's gender identity or expression in admitting and serving patrons, or in assigning rooms, tables or other services and facilities.

Business Transactions

It is unlawful to refuse to do business with any person because of gender identity or expression; this includes buying, selling, leasing, licensing, contracting, trading, or providing goods, services or information.

It is also unlawful to discriminate based on gender identity or expression in financial transactions (including loans, mortgages, extensions of credit and financial assistance).

Housing and Real Estate

You are protected from discrimination and harassment in the purchase or rental of a house, apartment, other dwelling unit, office or other commercial property because of actual or perceived gender identity or expression.

(EXCEPTION: The LAD does not apply to rentals of a single residential unit in a two-family dwelling, where the owner lives in the other unit; or renting a room or rooms in a single family dwelling that is the owner's residence.)

Harassment/Full & Equal Access:

Harassment and making statements or taking action that show that a person is unwelcome because of gender identity/expression, or making it more difficult for a person to do a job, engage in a business transaction, use a public accommodation or have full and equal access to housing or real estate because of gender identity/expression can also violate the LAD.

Reprisal: The LAD also prohibits reprisal or retaliation because an individual made a good faith complaint about discrimination or harassment based on gender identity or expression, or assisted someone else in making such a complaint.

Use of Restrooms & Locker Rooms: Individuals are permitted to use restrooms and locker rooms corresponding to their identified gender or expression. Refusal in allowing an individual to use the restroom or locker room consistent with his or her gender identity or expression would be unlawful under the LAD.

What can I do if I am harassed or subjected to discrimination based on gender Identity or expression?

The LAD provides two ways to seek relief.

■ **Administrative remedy:** You can contact the New Jersey Division on Civil Rights within **180 days** of the act of discrimination to file an administrative complaint. After a complaint is filed, the Division investigates the allegations. If an investigation shows enough evidence to support the complaint, and the complaint cannot be settled, a hearing will be held in the Office of Administrative Law. After that hearing, the Director of the Division on Civil Rights will issue a final decision as to whether unlawful discrimination has been proven. If discrimination has been proven, the decision will order appropriate relief.

■ **Judicial remedy:** As an alternative, you can file a complaint in the Superior Court of New Jersey, with or without the assistance of an attorney; this type of complaint must be filed **within two years** from the act of discrimination.

■ **Relief available:** The Division on Civil Rights or the Superior Court may order equitable relief, back pay, compensatory damages and attorney fees. The Superior Court may also award punitive damages. In addition, the Division on Civil Rights may impose civil penalties to be paid to the State government.



Jon S. Corzine
Governor



Anne Milgram
Attorney General

DIVISION ON
CIVIL RIGHTS

J. Frank Vespa-Papaleo
Director

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Visit our web site at www.NJCivilRights.org



NJ Office of the Attorney General

CIVIL RIGHTS

FACT SHEET

Marital & Civil Union Status Discrimination:

Your Rights Under the New Jersey Law Against Discrimination

What does New Jersey law say about discriminating against people because of their marital, domestic partnership or civil union status?

Under the New Jersey Law Against Discrimination it is generally against the law to treat you differently or harass you because of your particular marital, domestic partnership or civil union status - that is, because you are:

- Single
- Married
- Separated
- Divorced
- Widowed
- A Partner in a Civil Union as recognized under NJ Law
- A Partner in a Domestic Partnership as recognized under NJ Law

What Are My Rights?

It is against the law for someone to discriminate against you because of your marital, domestic partnership or civil union status:

- In employment (e.g. failure to hire, discharge, promotion)
- When you try to buy or receive goods or services

- When you try to rent or buy housing or real estate
- 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 use facilities offered to the general public

What can I do if I'm treated differently or harassed because of my marital or Civil Union Status?

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. Our services are free.

When you come to us, an initial evaluation will determine if your claim is covered under the law. This is an extremely complex area of the law and we will need to review all the issues. If we determine your claim is covered under the marriage, domestic partnership or civil union laws, the Division will then conduct an investigation into your allegations. If the investigation shows enough evidence to support your complaint, and your complaint cannot be settled, a hearing will be held in the Office of Administrative Law.

The Division is only able to investigate your complaint if it is filed within 180 days of the last act of alleged discrimination.

You may also have the right to file a lawsuit in state court, with or without the assistance of an attorney, and try your case in the New Jersey Superior Court. A Superior Court action must be filed within two years from the act of discrimination.

It's against the law for anyone to retaliate against you because you've complained to us.



Jon S. Corzine
Governor



Anne Milgram
Attorney General

**DIVISION ON
CIVIL RIGHTS**

J. Frank Vespa-Papaleo
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Visit our web site at www.NJCivilRights.org

NJ Attorney General Advisory Opinions

These Advisory Opinions relate specifically to interpretation of the New Jersey Civil Union Act's implementation. For more information on the Civil Union Act, you may also consult the Division's web site at www.NJCivilRights.org, or the NJ Civil Union Review Commission's web site at www.NJCivilRights.org/CURC.



JON S. CORZINE
Governor

State of New Jersey
OFFICE OF THE ATTORNEY GENERAL
DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF LAW
25 MARKET STREET
PO Box 112
TRENTON, NJ 08625-0112

STUART RABNER
Attorney General

ROBERT J. GILSON
Director

January 10, 2007

Joseph Komosinski
State Registrar of Vital Statistics
Health and Agriculture Building
P.O. Box 360
Trenton, New Jersey 08625-0360

Formal Opinion No. 1-2007

Re: Whether Public Officials and
Religious Figures May Decline to
Exercise their Authority to
Solemnize Civil Unions

Dear Mr. Komosinski:

On December 21, 2006, I provided advice to you regarding whether public officials may refuse to solemnize civil unions, once the statute authorizing civil unions becomes effective. A related question has arisen regarding whether religious figures, that is priests, ministers, rabbis, imams, and other religious officiants (hereinafter "members of the clergy" or "religious figures") may refuse to solemnize civil unions based on sincerely held religious beliefs. The legal analysis and conclusions regarding these two categories of individuals authorized to solemnize marriages and civil unions differs. I, therefore, wish to provide you with comprehensive advice on the questions noted above, which includes a reiteration of my December 21, 2006 advice.

You were previously advised that although public officials can decline to exercise their authority to solemnize marriages and civil unions entirely, if a public official elects to be available generally for the purpose of solemnizing marriages,



that official must also be available generally to solemnize civil unions. Any attempt to distinguish between marriages and civil unions in the exercise of the statutory authority to solemnize would violate the Law Against Discrimination, N.J.S.A. 10:5-1, et seq., ("LAD"). Should the solemnization power be implemented in a discriminatory way by a public official, the Attorney General is authorized to seek judicial relief to ensure compliance with the LAD.

The LAD, however, does not apply to the administration of religious rites by members of the clergy. As a result, there is no statutory bar to a member of the clergy declining to solemnize civil unions in accordance with sincerely held religious beliefs, even though that religious figure regularly solemnizes marriages.

L. 2006, c. 103, the law authorizing civil unions in this State, will become effective on February 19, 2007. The law amends existing statutes to authorize various public officials and religious figures to solemnize marriages and civil unions.

Once the law becomes effective, N.J.S.A. 37:1-13 will provide:

Each judge of the United States Court of Appeals for the Third Circuit, each judge of a federal district court, United States magistrate, judge of a municipal court, judge of the Superior Court, judge of a tax court, retired judge of the Superior Court or Tax Court, or judge of the Superior Court or Tax Court, the former County Court, the former County Juvenile and Domestic Relations Court, or the former County District Court who has resigned in good standing, surrogate of any county, county clerk and any mayor or the deputy mayor when authorized by the mayor, or chairman of any township committee or village president of this State, and every minister of every religion, are hereby authorized to solemnize marriage or civil union between such persons as may lawfully enter into the matrimonial relation or civil union; and every religious society, institution or organization in this State may join together in marriage or civil union such persons according to the

rules and customs of the society, institution
or organization.

Public Officials

Nothing in New Jersey law compels a public official to exercise his or her authority to solemnize marriages and civil unions. It is our understanding that many public officials authorized to solemnize marriages do not do so. Other officials, however, regularly make themselves available to solemnize marriages to members of the public wishing to avail themselves of this service.

Where a public official elects to be available generally to solemnize marriages, he or she must also be available generally to solemnize civil unions. The Law Against Discrimination provides that "[a]ll persons shall have the opportunity . . . to obtain all the accommodations, advantages, facilities, and privileges of any place of public accommodation . . . without discrimination because of . . . sexual orientation . . . [or] sex" N.J.S.A. 10:5-4. "This opportunity is recognized as and declared to be a civil right." Ibid. The regular availability of a public official to solemnize a marriage or civil union is an accommodation, advantage, or privilege of a place of public accommodation.

The LAD is not limited to a literal interpretation of the phrase "place" of public accommodation, but also applies to the generally available services of government entities and public officials. "To have the LAD's reach turn on the definition of 'place' is irrational because 'places do not discriminate; people who own and operate places do.'" Dale v. Boy Scouts of Am., 308 N.J. Super. 516, 533 (App. Div. 1998) (quoting Welsh v. Boy Scouts of Am., 993 F.2d 1267, 1282 (7th Cir.) (Cummings, C.J., dissenting), cert. denied, 510 U.S. 1012 (1993)), aff'd, 160 N.J. 562 (1999), rev'd on other grounds, 530 U.S. 640 (2000). Courts have interpreted "place of public accommodation" broadly to include public entities and government officials. Notably, in 2004, the Appellate Division held that a "Township police department -- both the building and the individual officers -- is a place of public accommodation." Ptaszynski v. Uwaneme, 371 N.J. Super. 333, 347 (App. Div.), certif. denied, 182 N.J. 147 (2004). The court noted that "[a]s a public entity, by its very nature a police force is a place of public accommodation." Ibid. To hold otherwise, the court reasoned, would lead to the incongruous result of having a myriad of private entities and employers subject to the LAD's

strictures while government law enforcement agencies and police officers are free to engage in discrimination. Id. at 347-348.

The rationale articulated in Ptaszynski follows the Supreme Court's observation in Dale, supra, where the Court, in its analysis of whether the Boy Scouts of America constitutes a place of public accommodation under the LAD, noted that "New Jersey governmental entities are, of course, bound by the LAD." 160 N.J. at 593, n.7. The Ptaszynski court added at the conclusion of its opinion: "We are satisfied that not just a municipal police force, but any State governmental agency is a place of public accommodation for purposes of inclusion under the umbrella of the LAD" 371 N.J. Super. 348.

These judicial statements leave no doubt that State and municipal governments and the services offered by public officials are places of public accommodation under the LAD. With this understanding of the LAD, where a public official elects to be available generally to solemnize marriages, that official must be available on the same terms to solemnize civil unions. Drawing a distinction between marriages and civil unions in the exercise of official powers would constitute discrimination in the provision of an accommodation, advantage, or privilege of a place of public accommodation based on either sexual orientation or sex or both. Differential treatment of this sort also may violate the equal protection provisions of the State Constitution. See Lewis v. Harris, 188 N.J. 415 (2006) (holding that equal protection provisions of State Constitution require committed, same-sex couples to be afforded all of the rights and responsibilities of marriage, including equal access to those rights and responsibilities).

Should a public official implement a practice of regularly solemnizing marriages, but not civil unions, the Attorney General could seek judicial relief. The Attorney General is authorized to receive, investigate and act upon complaints of violations of the LAD. "At any time after the filing of any complaint the Attorney General may proceed against any person in a summary manner in the Superior Court of New Jersey to compel compliance with any of the provisions of [the LAD], or to prevent violations or attempts to violate any such provisions, or attempts to interfere with or impede the enforcement of any such provisions or the exercise or performance of any power or duty thereunder." N.J.S.A. 10:5-14.1. The LAD provides for monetary penalties, as well as remedial and injunctive relief.

Religious Figures

It has long been the position of the Attorney General and the courts that religious institutions are not places of public accommodation under the LAD with respect to religious worship, sincerely held religious beliefs, practices and liturgical norms, even where the acts of religious institutions are ostensibly or colorably at odds with any of the categories of prohibited discrimination in the LAD. This position was recognized by the Third Circuit in The Presbytery of the Orthodox Presbyterian Church v. Florio, 40 F.3d 1454 (1994). In that case, the Director of the New Jersey Division of Civil Rights filed with the Court an affidavit averring that it was the Attorney General's position that "the state did not consider churches places of 'public accommodations'" under the LAD and had never sought to apply the LAD to religious practices. Id. at 1460-1461.

Five years later, Presiding Judge Skillman of the Appellate Division concurred with the Attorney General's interpretation of the LAD by holding that

[a]lthough churches, seminaries, and religious programs are not expressly excluded from the definition of "place of public accommodation," the Legislature clearly did not intend to subject such facilities and activities to the LAD. None of the enumerated examples of "public accommodations" set forth in N.J.S.A. 10:5-5(1) are similar in any respect to a place of worship or religious training. Furthermore, a church or other religious institution does not ordinarily solicit the general public's participation, which is "a principal characteristic of public accommodations." Instead, a religious institution's solicitation of participation in its religious activities is generally limited to persons who are adherents of the faith or at least receptive to its beliefs.

[Wazeerud-Din v. The Goodwill Home and Missions, Inc., 325 N.J. Super. 3, 10 (App. Div. 1999) (citations omitted), certif. denied, 163 N.J. 13 (2000).]

Judge Skillman further noted that "any attempt to regulate a religious institution's policies concerning participation in its religious activities would raise serious constitutional questions" under the First Amendment. Id. at 10-11 (citing Serbian East Orthodox Diocese v. Milivojevich, 426 U.S. 696 (1976)). The LAD, therefore, "should be construed to avoid governmental entanglement with religion in order to preserve its constitutionality." Id. at 11 (citing Market St. Mission v. Bureau of Rooming & Boarding House Standards, 110 N.J. 335, 341, appeal dismissed, 488 U.S. 882 (1988)).

This interpretation of the LAD is consistent with the language of N.J.S.A. 37:1-13, as it will appear once L. 2006, c. 103 becomes effective. That statute will provide:

[E]very religious society, institution or organization in this State may join together in marriage or civil union such persons according to the rules and customs of the society, institution or organization.

This statutory provision can be seen to reflect the Legislature's understanding of both the limited reach of the LAD and the potential Constitutional complications of an attempt by the State to dictate the ecclesiastical services to be performed by religious figures. It is apparent that the Legislature intended to permit members of the clergy to exercise the solemnization authority in accordance with their sincerely held religious beliefs. If those beliefs preclude recognition of civil unions, a religious figure's refusal to solemnize civil unions, even if that religious figure is regularly available to solemnize marriages, would not violate the LAD.

Nor would a religious figure's refusal to solemnize civil unions raise equal protection concerns under the State or federal Constitutions. Although, as noted above, differential treatment of same-sex and mixed-gender couples by public officials would raise significant equal protection concerns under the State Constitution, see Lewis v. Harris, supra, religious figures should not be seen as public actors in these circumstances. As a result, the equal protection provisions of the State and federal Constitutions are not triggered by the decision of members of the clergy to refuse to solemnize civil unions. While the State must make marriages and civil unions available on equal terms, the performance of a religious ceremony is not necessary for the solemnization of either a marriage or a civil union. Thus, the fact that some religious

January 10, 2007

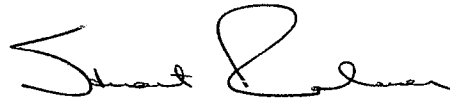
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figures may solemnize marriages, but not civil unions, will not affect the equal availability of marriages and civil unions under the law.

Conclusion

In light of your authority to supervise and direct local registrars of vital statistics who will have statutory authority to issue marriage licenses and civil union licenses, see N.J.S.A. 26:8-24, and in the interest of uniform Statewide practices, it would be appropriate to inform local registrars and the public officials who will be authorized to solemnize marriages and civil unions of the advice provided in this letter.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Stuart Rabner". The signature is fluid and cursive, with a large initial "S" and a long, sweeping underline.

STUART RABNER
ATTORNEY GENERAL OF NEW JERSEY



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February 16, 2007

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Formal Opinion No. 3-2007

Re: Recognition in New Jersey of Same-Sex
Marriages, Civil Unions, Domestic Partnerships
and Other Government-Sanctioned, Same-Sex
Relationships Established Pursuant to the Laws
of Other States and Foreign Nations.

Dear Mr. Komosinski:

Questions have been raised whether, once L. 2006, c. 103, the statute authorizing civil unions in our State, becomes effective, New Jersey will recognize as valid same-sex relationships formed under the laws of other States and foreign nations. You are advised that government-sanctioned, same-sex relationships validly established under the laws of other States and foreign nations will be valid in New Jersey beginning on February 19, 2007, either as civil unions or domestic partnerships. The name of the relationship selected by other jurisdictions, however, will not control its treatment under New Jersey law. Rather, it is the nature of the rights conferred by another jurisdiction that will determine how a relationship will be treated under New Jersey law. This requires both a comparison of the rights granted by the other jurisdiction to those afforded under New Jersey's civil union statute and domestic partnership law, as well as fidelity to the intent of the New Jersey Legislature.



As a result, those same-sex relationships from other jurisdictions that most closely approximate a New Jersey civil union - that is, relationships that provide substantially all of the rights and benefits of marriage - will be treated as civil unions under our law. Those same-sex relationships from other jurisdictions that most closely approximate New Jersey domestic partnerships - that is, relationships that provide some, but not all of the rights and obligations of marriage - will be treated as domestic partnerships under our law. Treatment of government-sanctioned, same-sex relationships from other jurisdictions in this fashion is consistent with the Legislature's decision to provide all of the rights and obligations of marriage, to same-sex couples through civil unions rather than marriage and to maintain domestic partnerships as a distinct government-sanctioned relationship after civil unions become effective.

Under this analysis, same-sex civil unions established under the current laws of Vermont and Connecticut, as well as same-sex domestic partnerships established under the laws of California, which provide rights that closely approximate those of New Jersey civil unions, will be valid in New Jersey and treated as civil unions in our State. In addition, same-sex marriages established under the current laws of Massachusetts, Canada, the Netherlands, Belgium, South Africa and Spain will be valid in New Jersey and treated as civil unions in our State. Great Britain, New Zealand, Iceland, and Sweden provide government-sanctioned, same-sex relationships that provide rights and obligations that closely approximate those offered to married couples. These relationships, which have a variety of names, will also be valid in New Jersey and treated as civil unions in New Jersey.

Couples in these relationships need not secure a New Jersey civil union license or solemnize their relationships in this State in order to enjoy all of the rights and obligations of a New Jersey civil union. However, pursuant to N.J.S.A. 37:1-7, a same-sex couple in a civil union or comparable relationship as noted above established under the laws of another jurisdiction may reaffirm their relationship under New Jersey law. Couples who reaffirm their relationships under this provision will receive a New Jersey civil union license and certificate of reaffirmation of civil union and will be registered as being in a civil union in this State. Ibid.

Same-sex couples in other government-sanctioned, same-sex relationships, such as the domestic partnerships recognized by

Maine and the District of Columbia, the reciprocal beneficiary relationships authorized under the laws of Hawaii, and the various same-sex relationships recognized by foreign nations that provide a set of rights and obligations fewer in number and scope than those afforded to married couples will be valid in New Jersey and treated as domestic partnerships in our State.

Couples in these relationship also need not register as domestic partners in New Jersey to enjoy the rights and obligations of domestic partnership in our State. However, same-sex couples in government-sanctioned relationships from other jurisdictions that approximate domestic partnerships, and who otherwise meet the requirements of New Jersey law, may enter into a New Jersey civil union with each other and secure all of the rights and obligations of a civil union in this State.

1. Background: Government-Sanctioned, Same-Sex Relationships.

Massachusetts is the only State that permits same-sex couples to marry. Marriage is available to same-sex couples in that State on the same terms as it is available to mixed-gender couples. See Opinion of the Justices to the Senate, 802 N.E.2d 565 (Mass. 2004); Goodridge v. Department of Public Health, 798 N.E.2d 941 (Mass. 2003). In addition, marriage is available to same-sex couples on the same terms that it is available to mixed-gender couples in five countries: Canada, the Netherlands, Belgium, South Africa and Spain. See Netherlands Legal Code, Art. 1:30; Moniteur Belge, 28.02.2003 Ed. 3 9880-9883; S.C. 2005, c. 33, s.2 and s.4; Laws of South Africa 2006, No. 17; Boletin Ofical De Las Cortes Generales, No. 18-1, 21 June 2005, 121/000018.

Civil unions, which provide all of the legal rights and obligations of marriage, are distinct legal relationships available to same-sex couples in Vermont and Connecticut. See Vt. Stat. Ann. tit. 15, §1204(a); Conn. Gen. Stat. Ann. §46b-38nn. New Jersey's civil union statute, L. 2006, c. 103, which will offer all of the rights and obligations of marriage to same-sex couples, will become effective on February 19, 2007.

Domestic partnerships, which generally provide same-sex couples some, but not all, of the rights and obligations of marriage, are recognized in several States and foreign nations. An exception in this category is California, which provides domestic partners with a host of rights approximating those afforded to married couples. Cal. Fam. Code §297.5(a). The majority of

jurisdictions that recognize domestic partners, including Maine, the District of Columbia and Hawaii (where the unions are called "reciprocal beneficiary relationships") provide notably fewer rights to domestic partners than to married couples. See 2003 Me. Laws c. 672; D.C. Code §32-702; Haw. Rev. Stat. §572C-2, et seq.

New Jersey's domestic partnership statute, which provides some, but not all, of the rights and obligations of marriage, took effect on July 10, 2004, L. 2003, c. 246, and will remain in place when the law authorizing civil unions takes effect. The rights and responsibilities of domestic partnerships existing before the effective date of L. 2006, c. 103 will not be altered. N.J.S.A. 26:8A-4.1. However, all same-sex couples in domestic partnerships will be provided with notice and an opportunity to enter into a civil union with each other. Ibid. If they elect to do so, their domestic partnerships will be dissolved automatically when their civil union comes into being. Ibid. In addition, once the law authorizing civil unions becomes effective, the only new domestic partnerships that will be authorized are for couples, either same-sex or mixed-gender, both of whom are over 62 years of age. Ibid.

Government-sanctioned, same-sex relationships other than marriage exist in, among other nations, Andorra, Colombia, Croatia, Czech Republic, Denmark, Finland, France, Germany, Great Britain, Hungary, Iceland, Israel, Luxembourg, New Zealand, Norway, Portugal, Slovenia, Sweden, Switzerland, and parts of Argentina, Brazil, Italy, Mexico, and in all Australian States. The terminology for these unions is not standardized and the names given to these relationships translate into, among other things, life partnerships, stable unions, civil pacts, registered partnerships, domestic partnerships, civil partnerships, reciprocal beneficiary relationships, and significant relationships. The recognized relationships in Great Britain, New Zealand, Iceland, and Sweden offer rights that match those offered to married couples. See Laws of Great Britain 2004, c. 33; Laws of New Zealand 2004, No. 102; Laws of Iceland No. 87 12 June 1996; Laws of Sweden 1994.1117, c. 3, §1.

2. Recognition of Civil Unions, Domestic Partnerships, Reciprocal Beneficiary Relationships, and other Same-Sex Relationships Established Under the Laws of Other States and Foreign Nations.

New Jersey law expressly mandates recognition of same-sex relationships other than marriage validly established under the laws of other jurisdictions. The Domestic Partnership Act provides that a "domestic partnership, civil union or reciprocal beneficiary relationship entered into outside of this State, which is valid under the laws of the jurisdiction under which the partnership was created, shall be valid in this State." N.J.S.A. 26:8A-6c. In addition, the law authorizing civil unions provides that a "civil union relationship entered into outside of this State, which is valid under the laws of the jurisdiction under which the civil union relationship was created, shall be valid in this State." N.J.S.A. 37:1-34; L. 2006, c. 103, §95.

Current Vermont and Connecticut civil unions, like their New Jersey counterpart, provide all of the rights and obligations of marriage to the civil union partners. See Vt. Stat. Ann. tit. 15 §1204(a); Conn. Gen. Stat. Ann. §46b-38nn. These unions, therefore, are valid in New Jersey and should be accorded all of the rights and obligations of a New Jersey civil union. The current California domestic partnership, despite its name, has been expanded to include rights and benefits indistinguishable from marriage. Cal. Fam. Code §297.5(a). Given the scope of California's domestic partnership, this relationship more closely approximates a New Jersey civil union than a New Jersey domestic partnership and should be treated as the equivalent of a New Jersey civil union. The same is true for the civil partnerships authorized by Great Britain, Sweden, New Zealand and Iceland, where same-sex couples are afforded rights and benefits identical to civil marriage. See Laws of Great Britain 2004, c. 33; Laws of New Zealand 2004, No. 102; Laws of Iceland No. 87 12 June 1996; Laws of Sweden 1994.1117, c. 3, §1.

Domestic partnerships, reciprocal beneficiary relationships and other government-sanctioned, same-sex relationships that afford rights and obligations less expansive than the rights and benefits of marriage are valid in New Jersey and will provide all of the rights and obligations of a New Jersey domestic partnership. The domestic partnerships authorized by the current laws of Maine and the District of Columbia fall into this category. See Me. Pub. L. 2003, c. 672; D.C. Pub. L. 9-114. These

relationships, like New Jersey's domestic partnerships, provide for limited health care, inheritance, property rights, and other rights and obligations, but do not approach the broad array of rights and obligations afforded to married couples. Government-sanctioned, same-sex relationships provided by other jurisdictions that approximate New Jersey domestic partnerships are valid in this State and should provide all of the rights and obligations of a New Jersey domestic partnership.

Government-sanctioned, same-sex relationships other than marriage authorized by foreign nations not addressed in this Formal Opinion should be examined under the analysis set forth herein. Those that approximate a New Jersey domestic partnerships are valid in New Jersey and provide all of the rights and obligations of a New Jersey domestic partnership. Any that more closely approximate a civil union also are valid in New Jersey and provide all of the rights and obligations of a New Jersey civil union.

3. Recognition of Same-Sex Marriages Established under the Laws of Massachusetts and Foreign Nations.

In Lewis v. Harris, 188 N.J. 415 (2006), our Supreme Court held that the State Constitution requires that same-sex couples be afforded access to a government-sanctioned relationship that provides all of the rights and obligations of marriage. The Court held that this mandate could be satisfied either by extending the ability to marry to same-sex couples or by providing a distinct, government-sanctioned relationship that would provide same-sex couples with all of the rights and obligations of marriage. The Legislature decided not to authorize same-sex marriages, but to create civil unions as the vehicle for providing the rights and obligations of marriage to same-sex couples.

This history is instructive in deciding how to treat same-sex marriages established in Massachusetts and foreign nations under New Jersey law. Consistent with Lewis v. Harris, such marriages could be called either marriages or civil unions, so long as all of the rights and obligations of marriage were provided. It is reasonable to conclude that the Legislature intended that these same-sex relationships be considered civil unions in view of the Legislature's response to the holding in Lewis v. Harris. The Legislature's lawful policy judgment should be respected and followed.

Accordingly, same-sex marriages established under the laws of Massachusetts and foreign nations are valid in New Jersey and should be treated as civil unions in our State.¹

4. Conclusion

In light of your authority to supervise local registrars of vital statistics who will have authority to issue marriage licenses and civil union licenses, see N.J.S.A. 26:8-24, and in the interest of uniform Statewide practices, it would be appropriate to inform local registrars of the advice provided in this letter.

Sincerely yours,



STUART RABNER

ATTORNEY GENERAL OF NEW JERSEY

¹ Although the Full Faith and Credit Clause of the United States Constitution mandates that States recognize the "public Acts, Records, and judicial Proceedings of every other State," U.S. Const. art. IV, §1, that requirement is not absolute. The Clause does not require "a state to substitute the statutes of other states for its own statutes dealing with a subject matter concerning which it is competent to legislate." Baker v. General Motors Corp., 522 U.S. 222, 232 (1998) (quoting Pacific Employers Ins. Co. v. Industrial Accident Comm'n, 306 U.S. 493, 501 (1939)); see Franchise Tax Bd. v. Hyatt, 538 U.S. 488 (2003) (Full Faith and Credit Clause does not require a State to adopt another State's sovereign immunity statutes). Recognizing same-sex marriages established under Massachusetts law as civil unions in New Jersey both gives substantial effect to the Massachusetts relationships by providing all of the rights and obligations of marriage and comports with the intent of the New Jersey Legislature to provide those rights to same-sex couples through a civil union. Similarly, with respect to same-sex marriages formed under the laws of foreign nations, as "a general matter, the laws of one nation do not have force or effect beyond its borders." Hennefeld v. Township of Montclair, 22 N.J. Tax 166, 178 (Tax 2005) (quoting In re: Kandu, 315 B.R. 123, 133 (Bankr. W.D. Wash. 2004)). Comity, however, permits States to give effect to foreign laws. Recognizing same-sex marriages established in foreign nations respects foreign laws and comports with New Jersey's legislative decisions regarding the provision of rights and obligations to same-sex couples.

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