

# Retaliation Protections in New Jersey

This document provides an overview of retaliation protections in New Jersey, which safeguard employees from adverse actions taken by their employers in response to protected activities. It covers the definition of protected activities, common forms of retaliation, available remedies, the statute of limitations for filing a claim, the process for filing a claim, and the burden of proof. We also discuss the benefits of contacting Swartz Swidler to protect your rights and seek legal guidance.

 by John Palmer

# Protected Activities

New Jersey law prohibits employers from retaliating against employees for engaging in protected activities. These activities include, but are not limited to:

- Filing a complaint with the New Jersey Division on Civil Rights (DCR) or other governmental agencies.
- Testifying or participating in a DCR or other governmental investigation.
- Opposing a discriminatory practice, even if the employee's belief is later found to be incorrect.
- Requesting a reasonable accommodation for a disability or religious belief.
- Exercising their rights under the New Jersey Law Against Discrimination (LAD).

It's important to note that retaliation is prohibited even if the underlying complaint or protected activity is ultimately found to be without merit.

# Common Forms of Retaliation

Retaliation can take many forms, and employers may attempt to disguise their actions as legitimate business decisions. Some common forms of retaliation include:

- Demotion or transfer to a less desirable position.
- Reduction in pay or benefits.
- Increased scrutiny or monitoring of work performance.
- Unfavorable work assignments or scheduling.
- Unjustified disciplinary actions, including termination.
- False accusations or negative performance reviews.
- Harassment or intimidation.

Employees should be aware of these common forms of retaliation and document any evidence that suggests they are being retaliated against.

# Retaliation Remedies

Employees who are retaliated against have several remedies available to them. These remedies may include:

- Reinstatement to their previous position.
- Back pay for lost wages and benefits.
- Front pay for future lost wages and benefits.
- Compensatory damages for emotional distress and pain and suffering.
- Punitive damages to deter future retaliation.
- Attorney's fees and costs.

The specific remedies available will depend on the circumstances of each case and the severity of the retaliation.

# Statute of Limitations

Employees have a limited time to file a retaliation claim under the LAD. The statute of limitations is two years from the date of the last act of retaliation. However, there are some exceptions to this rule, such as if the retaliation is a continuing violation.

It is crucial to consult with an attorney promptly if you believe you have been retaliated against. An experienced attorney can help you determine the best course of action and ensure that you meet all deadlines.

# Filing a Retaliation Claim

Employees can file a retaliation claim with the DCR or file a lawsuit in court. It is advisable to contact an attorney before filing a claim to ensure that it is properly prepared and filed within the statute of limitations.

To file a claim with the DCR, employees must complete a complaint form and submit it to the DCR's office. The DCR will investigate the claim and attempt to resolve it through mediation or other methods.

If the DCR is unable to resolve the claim, employees can file a lawsuit in court. However, employees must exhaust administrative remedies before filing a lawsuit in court.

# Burden of Proof

In a retaliation claim, the employee has the initial burden of proving that they engaged in a protected activity and that they suffered an adverse employment action. Once the employee has established this, the burden shifts to the employer to show that the adverse action was taken for a legitimate, non-retaliatory reason.

If the employer can show a legitimate reason for the adverse action, the employee must then demonstrate that the employer's reason is a pretext for retaliation. The employee can do this by showing that the employer's reason is not credible or that it was not the real reason for the adverse action.

# Contacting Swartz Swidler

If you believe you have been retaliated against, it is important to contact an attorney as soon as possible. Swartz Swidler has a team of experienced employment lawyers who can help you understand your rights and options. We offer free consultations to discuss your case and determine the best course of action.

We can assist you with filing a retaliation claim with the DCR or filing a lawsuit in court. We will fight to protect your rights and seek the best possible outcome for your case. Contact us today at (856) 685-7420 or visit [swartz-legal.com](http://swartz-legal.com) to schedule a free consultation.