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## New Jersey Law Now Requires Employers to Post and Notify Employees of Gender Equity Laws

By Eboneé Hamilton Lewis and Jessica Agarwal

New Jersey employers now have important new compliance responsibilities related to the 2012 amendments to the New Jersey Equal Pay Act. Effective January 6, 2014, employers must provide notice to employees of their right to be free from gender discrimination in the workplace, including inequity or bias in pay, compensation, benefits or other terms and conditions of employment under existing federal and state laws. The Department of Labor and Workforce Development (LWD) published the required notice and related regulations in the New Jersey Register.

Employers in New Jersey with 50 or more employees (including employees that work inside or outside of New Jersey) are now required to post the notice distributed by the LWD in a conspicuous, accessible location in each of its New Jersey workplaces. The notice details the “right to be free of gender inequity or bias in pay, compensation, benefits, or other terms and conditions of employment” under the New Jersey Law Against Discrimination, Title VII of the Civil Rights Act of 1964, and the Equal Pay Act of 1963. The notice is available as part of the Employer Poster Packet on the Department of Labor and Workforce Development (LWD) website.<sup>1</sup>

Covered employers must post both English and Spanish versions of the notice. If an employer reasonably believes that the first language of 10% or more of its workforce is other than English or Spanish, the employer is required to provide notice in that language also, provided that such notice is available through the LWD.

The law includes the following additional notification requirements:

- By February 5, 2014, covered employers must provide each employee with a written copy of the notice.
- For workers hired after January 6, 2014, covered employers must provide a written copy of the notice upon hiring.
- Covered employers must provide all employees with a written copy of the notice each year on or before December 31.
- Covered employees must provide any employee who requests it with a written copy of the notice.

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<sup>1</sup> <http://lwd.dol.state.nj.us/labor/lwdhome/content/employerpacketforms.html>.

Employers may use any of the following delivery methods when providing a written copy of the notice:

- E-mail;
- Print, including, for example, a pay check insert, an information packet provided to new hires, an attachment to an employee manual or handbook, or a flyer distributed at an employee meeting; or
- Through the internet or intranet website if the site is for the exclusive use of all employees, can be accessed by all employees, and the employer provides notice to the employees of its posting.

Finally, along with the written copy of the notice, the employer must also provide an acknowledgement that the employee received the notice and has read and understood its terms. The employee must sign the acknowledgement, in print or electronically, and return it to the employer within 30 days of his or her receipt.

There is no record retention duration for the acknowledgements set forth in the statute or any corresponding regulations.<sup>2</sup> Accordingly, as a best practice, a covered employer should retain the signed acknowledgement for an employee's entire employment and for at least two years subsequent to the cessation of the employee's employment, which is the time period that an employee could bring a claim for discrimination in wages under New Jersey's Law Against Discrimination (LAD) and/or the Lilly Ledbetter Act.<sup>3</sup> Under the two-year statute of limitations for a LAD claim, a plaintiff may recover damages for alleged discriminatory wages paid within two years of the filing of the discrimination claim—even if the discriminatory decision occurred prior to the limitations period.

Neither the statute nor the corresponding regulations set forth the legal consequences for an employer who fails to obtain and/or retain the acknowledgements.<sup>4</sup>

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<sup>2</sup> See N.J.A.C. §§ 12:2-2.1 to 12:2-2.4.

<sup>3</sup> See *Alexander v. Seton Hall University*, 410 N.J. Super. 574 (2009).

<sup>4</sup> See N.J.A.C. §§ 12:2-2.1 to 12:2-2.4.