

Guidance on Discrimination in School Discipline

Summary

The New Jersey Law Against Discrimination (LAD) prohibits discrimination and bias-based harassment based on actual or perceived race, religion, national origin, gender, sexual orientation, disability, gender identity or expression, and other protected characteristics in all schools that are not operated by a religious or sectarian institution.

Applied to student discipline, these protections:

Prohibit discrimination on the basis of race, national origin, religion, gender, disability, and other protected characteristics in the implementation of school discipline policies;

Safeguard students from discrimination at every stage of the disciplinary process, from behavior management in the classroom or hallways, to referrals to the principal or any other authority figure outside the classroom, to the imposition of discipline in any form, including detention, suspension, expulsion, alternative school placement, or any other disciplinary measure;

Apply to anyone whom the school or district authorizes to discipline students, including teachers, administrators, school staff, security guards, school resource officers or other officers authorized by the school to engage in formal or informal discipline, and other agents; and

Apply to discipline imposed by the school for conduct in any setting, including outside of school.

Under the LAD, there are two legal claims that may apply to discrimination or bias-based harassment in the administration of student discipline:

Differential Treatment: This claim applies where a student is disciplined differently because of their race or other protected characteristic, either because a policy explicitly treats students of different races differently or because authority figures apply a policy differently to students of different races or other protected characteristics.

Disparate Impact: This claim applies where a neutral practice or policy impacts students of one race or other protected characteristic more severely than it does students of another race, or students with disabilities more severely than students who do not have disabilities.

The LAD holds those in charge of administering student discipline accountable not only for disciplinary decisions that are made with an explicitly discriminatory *intent*, but also if their disciplinary decisions have a discriminatory *impact*. Schools have a responsibility to monitor for and address bias-based disparities in student discipline, and schools that fail to do so can be held accountable under the New Jersey Law Against Discrimination.



For More Information

Read DCR's new [Guidance on Discrimination in School Discipline](#) or access our series of one-pagers.

