



# ACLU

FOUNDATION

AMERICAN CIVIL LIBERTIES UNION  
of NEW JERSEY

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John K. Mara, Esq., President and Chief Executive Officer, New York Giants  
Steve Tisch, Chairman and Executive Vice President, New York Giants  
Jerry Reese, Senior Vice President and General Manager, New York Giants  
1925 Giants Drive  
East Rutherford, NJ 07073

Woody Johnson, Chairman and CEO, New York Jets  
John Idzik, General Manager, New York Jets  
The Atlantic Health Jets Training Center  
1 Jets Drive  
Florham Park, NJ 07932

Roger Goodell, Commissioner, National Football League  
280 Park Avenue  
Suite 12  
New York, NY 10017-1216

Re: Gay athletes and New Jersey's Law Against Discrimination

Dear Football Executives:

The American Civil Liberties Union of New Jersey was pleased to read the statements of Giants' co-owners Steven Tisch<sup>1</sup> and John Mara<sup>2</sup>, as well as the statement of the NFL<sup>3</sup> and the players union<sup>4</sup>, in support of University of Missouri defensive end Michael Sam. We are hopeful that the Jets' ownership or general manager will issue a similar statement of support.

I write specifically to highlight the fact that, for employers who provide services in the State of New Jersey, judging people on their merits and not on their sexual orientation is not only the right thing to do, it is the law. Therefore, if an NFL general manager were to refuse to draft a player (or lower a player on the team's draft rankings) based on the player's sexual orientation, that act would violate the New Jersey Law Against Discrimination ("LAD"), *N.J.S.A.* 10:5-1 et seq.

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<sup>1</sup> <http://newyork.cbslocal.com/2014/02/10/giants-co-owner-steve-tisch-shows-support-for-michael-sam/>

<sup>2</sup> [http://www.nj.com/collegefootball/index.ssf/2014/02/giants\\_john\\_mara\\_among\\_those\\_s.html](http://www.nj.com/collegefootball/index.ssf/2014/02/giants_john_mara_among_those_s.html)

<sup>3</sup> <http://www.nfl.com/news/story/0ap2000000324603/article/michael-sam-nfl-draft-prospect-announces-hes-gay>

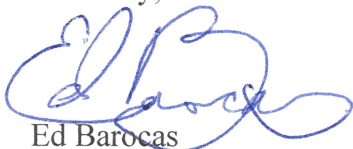
<sup>4</sup> <http://www.nbcnews.com/storyline/michael-sam-comes-out/nfl-union-prez-players-will-accept-michael-sam-open-arms-n26976>

The purpose of the Law Against Discrimination is to “eradicat[e]...the cancer of discrimination.”<sup>5</sup> The law therefore prohibits, for all businesses and other public accommodations in the state, discrimination in hiring or in the provision of services based on a protected status, which includes sexual orientation. The Jets and Giants, as well as the NFL in general, clearly fall within the definition of a New Jersey public accommodation that is not permitted to discriminate based on those grounds.

In two articles posted on SI.com (one by Pete Thamel and Thayer Evans;<sup>6</sup> one by Peter King<sup>7</sup>), anonymous NFL general managers and other officials stated they might refuse to draft Sam based on concern of how a gay player could affect their locker room. Yet as should be obvious, it is unlawful for an employer to deny a qualified candidate a job because some of its other employees do not want to work with a person of that candidate’s race, religion, ethnicity or sexual orientation (or any other protected status). And an employer may not justify discriminating against a prospective employee because the employer believes the workplace as it now exists is, in effect, a hostile work environment.

As an organization with more than 12,000 members in New Jersey (and hundreds of thousands nationwide), many of whom are football fans, the ACLU-NJ is hopeful that the area teams that many of us support do not allow homophobia (or any prejudicial basis) to deny themselves and their fans the most meritorious players. As civil rights advocates, we remind your organizations that the State of New Jersey has taken strong measures to end workplace discrimination and ensure that employees or potential employees like Michael Sam are treated fairly regardless of their sexual orientation. And as with all other covered employers in our state, NFL teams in New Jersey must play by the rules.

Sincerely,



Ed Barocas  
ACLU-NJ Legal Director

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<sup>5</sup> *Fuchilla v. Layman*, 109 N.J. 319, 334 (1988), quoting *Jackson v. Concord Co.*, 54 N.J. 113, 124 (1969).

<sup>6</sup> <http://sportsillustrated.cnn.com/college-football/news/20140209/michael-sam-draft-stock/>

<sup>7</sup> <http://mmqb.si.com/2014/02/09/michael-sam-monday-morning-quarterback/>