

Key words: For examining discrimination cases

Three Initial Questions To Ask:

1. Are you a member of a protected group because of your race, sex, religious affiliation, national origin, physical or mental handicap, age, or sexual orientation?
2. Are you being treated differently from other similarly situated employees doing the same type of work? Is there disparate treatment??
3. Can you make an argument or provide evidence that the different treatment is based upon your race, sex, religious affiliation, national origin, physical or mental handicap, age, or sexual orientation?

• DISPARATE TREATMENT

Can you show differential treatment over time? It is important to demonstrate a pattern of behavior that is discriminatory based upon disparate treatment. For instance, can you demonstrate a pattern of hiring similarly situated females with similar qualifications and background at a lower step than males hired during the same time period??

• ADVERSE IMPACT

Do employer policies or rules adversely affect a protected group more than it does other constituencies? EG: The employer requires a physical exam, which has nothing to do with the work required by the job? The exam systematically screens out female employees. Can you meet the burden of proof and show that the exam is a pretext for discrimination??

• **PERPETUATING DISCRIMINATION**

Do certain policies or practices perpetuate discrimination? EG: Management has developed a demonstrable practice of posting openings only in departments occupied exclusively by white employees (or male employees) Can you show that the policy systematically excludes a certain protected group from equal opportunity and chances for professional development and subsequently perpetuates a previous discrimination?

• **STATISTICAL IMBALANCE**

Can you show a statistical imbalance, which disadvantages a protected group?? For instance, .an employer in an area where Hispanics make up 50 % of the population (the statistical make up of the qualified labor pool) has a workforce that is 90% white. Can you show how pre-employment examination or interview processes or other selection method tends to screen out and disadvantage Hispanic people?

• **REASONABLE ACCOMODATION**

An employee may be guilty of discriminating if he/she fails to accommodate your needs based upon a legitimate disability or handicap, (religious affiliation) as long as your disability does not impose an undue hardship on the employer and allows you to perform the essential functions of the job. Did the employer refuse to make adjustments in the work environment or work schedules to accommodate you?