

EEO Compliance

- Title VII of the Civil Rights Act of 1964, as amended
- Age Discrimination in Employment Act of 1967
- Equal Pay Act of 1963
- Americans with Disabilities Act of 1990, as amended
- Genetic Information Non-Discrimination Act of 2008

Strategic Enforcement Plan Priorities

- Eliminating Barriers in Recruitment and Hiring
- Protecting Immigrant, Migrant and Other Vulnerable Workers
- Addressing Emerging Issues
- Enforcing Equal Pay Laws
- Preserving Access to the Legal System
- Preventing Harassment Through Systemic Enforcement and Targeted Outreach

Charge Investigation and Negotiation

- By Phone
- Walk In Traffic
- Mail (email & fax)
- Assessed
- Holowecki
- Contact National Call Center
- Mail questionnaire
- Received by Local Office
- Assessed

Holowecki vs Federal Express, Inc.

- Charging Party's Name
- Respondent's Name
- Statement of the harm based in laws enforced by EEOC
- Notice of Intent to take action
- Signed by Charging Party

What Happens Next?

- Notice Sent to the Respondent
- Invitation to Mediate or
- Charge Assigned to Enforcement for investigation

Investigative Techniques

- Mediation
- Settlement Discussions
 - Negotiated Settlement Agreement
 - Withdrawal with Benefits
- Fact Finding Conference
- Onsite Investigation
- Full Investigation

Enforcement

Prima Facie Case (Green vs McDonnell Douglas)

- - means “at first look” – the individual has submitted sufficient information that they have been discriminated against.
- Elements of Proof - different depending upon the alleged basis/issue of discrimination

Element of Proof (Hiring)

1. Charging Party is a member of a protected class
2. Charging Party applied for a job and met the stated qualifications
3. Charging Party was rejected
4. The employer filled the job or continued to seek applications from persons with similar qualifications

Note: Employer's selection of a person outside of charging party's protected shows an inference of discrimination but is not necessarily needed to prove element of proof.

Respondent's Action

- Burden Shifting
- Defense
- Position Statement

What Happens Next?

- Determining Pretext
 - Unworthy of belief
 1. Reason advanced by the Respondent is not believable
 2. Similarly situated individuals outside of Charging Party's class were treated more favorable
 3. Evidence of a bias of the Respondent's makers towards persons of Charging Party's class
 4. Statistics showing underemployment of members of Charging Party's class (this evidence may be helpful but usually not determinative)

Ways to Get to Pretext

- Review and analysis of the Position Statement
- Interview of Witnesses
- Onsite Investigation
- Fact Finding Conference
- Statistical Analysis

Results of the Investigation

No Pretext

- Notice of Right to Sue Issued to Parties
- 90 days to file suit in court

Pretext Proven

- Cause determination issued
- Parties invited to conciliation
- Successful/Unsuccessful
- Successful – enter in agreement
- Unsuccessful
 - Notice of Right to Sue
 - Referral to Department of Justice
 - Litigation by EEOC