

# Disparate impact disparate treatment case study

[Business](#)



It enforced a legal theory of disparate treatment.

Disparate treatment exists if an employer gives less favorable treatment to employees because of their race, color, religion, sex, or national origin. For example, a retail store that refused to promote black warehouse workers to sales positions, preferring white salespeople to serve predominantly white customers, would be guilty of this kind of discrimination. Disparate treatment violates the plain meaning of Title VII. On the other hand, disparate impact is the discrimination caused by policies that apply to everyone and seem neutral but have the effect of disadvantaging a protected group.

Such policies are illegal unless strongly job-related and indispensable to the conduct of the business. Basically, the intention of Title VII was to create a level playing field by prohibiting all discrimination, given the entrenched prejudices of employers.

Early disparate treatment law cases sometimes included direct evidence of this conscious hostility or intent to discriminate. Because perceivers can never know what another person actually thinks, the determination of intent required inferences arising from the other person's behavior. For example, in the early case of *Slack v.*

*Havens*, (1975) four Black women claimed that they were illegally discharged because of their race when they refused to perform heavy cleaning duties that were not within their job description. Another coworker, a White woman, was excused from performing these duties. Their supervisor, Pompanos, who had ordered the women to do the heavy work, was known for making

statements such as “ Colored people should stay in their places” and “ Colored folks are hired to clean because they clean better” (up.

1092-1093). The court noted that these statements reflected ill motives or requiring the Black plaintiffs to perform the heavy cleaning.

The statements were taken as “ direct evidence” of racial animus, I. E. , conscious intent to discriminate on the basis of race.

Under the law, “ direct evidence” suggests that the commentary from Pompanos was the equivalent of Pompanos telling the women that they were Logicalness as a result AT tenet Deluge Black. In toner words, en was aware AT Nils prejudicial attitudes toward Black persons and consciously treated them differently as a result. The bad intent caused the illegal discrimination to occur, supporting a strict court decision (later affirmed) for the plaintiffs.

If Pompanos had not made the statements attributed to him, but had instead told the plaintiffs that they were selected because he truly believed they cleaned better than the White woman (based on his own observation), would the result have been the same? He might still have been acting out of prejudice or stereotypes, known or unknown to him, but he would not have exhibited a conscious intention to discriminate. The legal outcome would not be as straightforward. When the behaviors may reflect an unconscious or ambiguous intent to discriminate, the legal yester may not recognize them as constituting illegal discrimination (Krieger, 1995).

For disparate impact, Pickling et al. V. New York State Department of Civil Service (1995) provides a good example. Juliet Pickling and other plaintiffs

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were employed as temporary Social Welfare Eligibility Examiners by Westchester County. In 1989 and 1990, each plaintiff took and failed, more than once, the civil service examination for the position of Eligibility Examiner with Westchester County.

On March 15, 1991, each plaintiff was terminated because her failing test score recycled her placement on the “ eligible list” for the position of Eligibility Examiner.

Each plaintiff, except one, had received satisfactory to excellent performance evaluations from at least one of her supervisors prior to her termination. Initially, access to the position of Eligibility Examiner is controlled by competitive examination; the applicants must attain a score of 70 on the examination to be placed on an Eligibility Examiner “ eligible list. ” Plaintiffs had been employed as temporary Eligibility Examiners because Westchester County did not have an “ eligible list” at the time. Temporary Eligibility Examiners may become permanent, however, only by passing the examination.