



**FCRA WAGE PROJECT
CHAPTER 5: DISPARATE TREATMENT CLAIMS
[ALL-IN-ONE DOCUMENT]**

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FCRA WAGE PROJECT

CHAPTER: 5 DISPARATE TREATMENT CLAIMS

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ITEMS: A through F



5-0 | CHAPTER INTRO - DISPARATE TREATMENT CLAIMS

I think my employer treats women differently than men.

- a. What Does "disparate treatment" mean?
- b. What is the difference between disparate treatment and disparate impact?
- c. What kind of claims can be brought as a disparate treatment claim?
- d. I think that a company policy adversely affects me because of my gender, how do I prove it?
- e. Are there times when an employment policy or practice may legally treat women different than men?
- f. What could my employer do to deny my allegations, and how do I respond to its denials?
- g. Does it matter when the discrimination occurred? (new window to WDTLS)
- h. What options do I have if I my employer has fewer than fifteen employees? (new window to WDTLS)
- i. If I prove my disparate treatment claim, what kind of remedies am I entitled to? (new window to Remedies)

(unknown authors)



5-1 | NOTE ON DISPARATE TREATMENT CLAIMS IN FLORIDA

(Note: The FCRA Does not specifically mention disparate treatment, so the information on this page is based largely on federal law. See the Federal Law page for more details.)

(unknown authors)



5-A | WHAT DOES "DISPARATE TREATMENT" MEAN?

Disparate treatment is a employer's policy or practice that explicitly treats women differently than men.

(unknown authors)



5-B | WHAT IS THE DIFFERENCE BETWEEN DISPARATE TREATMENT AND DISPARATE IMPACT?

Disparate impact is the effect of a policy that was not necessarily intended to discriminate. Disparate treatment is intentional discrimination against someone because of their protected class.

(unknown authors)



5-C | WHAT KIND OF CLAIMS CAN BE BROUGHT AS A DISPARATE TREATMENT CLAIM?

Any claim that relates to discriminatory treatment of a person because of gender qualifies as a disparate treatment claim. In the employment context common claims are discriminatory hiring or firing, unequal pay, and wrongfully denied promotion.

(unknown authors)



5-D | I THINK THAT A COMPANY POLICY ADVERSELY AFFECTS ME BECAUSE OF MY GENDER, HOW DO I PROVE IT?

To establish a disparate treatment case, you must show:

1. you are qualified;
2. you suffered an adverse employment action;
3. your employer treated similarly-situated employees not in the protected class more favorably; and
4. you were qualified for the same position or level of pay as similarly situated employees.^{[32](#)}

(unknown authors)

Footnotes

³²Id. at 1349.



5-E | ARE THERE TIMES WHEN AN EMPLOYMENT POLICY OR PRACTICE MAY LEGALLY TREAT WOMEN DIFFERENT THAN MEN?

An employer may justify a practice based on a bona fide occupational qualification, which is a legally legitimate reason for which an employer may consider sex or any other protected class as a qualification necessary for the performance of a particular type of employment.³³

(unknown authors)

Footnotes

³³ Fla. Stat. Ann. §760.10(7)



5-F | WHAT COULD MY EMPLOYER DO TO DENY MY ALLEGATIONS, AND HOW DO I RESPOND TO ITS DENIALS?

Once you establish your case, your employer must give a legitimate, non-discriminatory reason for its actions. You must then show that the reasons your employer has provided are false.³⁴

(unknown authors)

Footnotes

³⁴ See Prieto, 190 F.Supp. 2d at 1349.



APPENDIX



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