



PDC Machines, LLC

Avoiding Discrimination, Harassment, and Retaliation

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Discrimination

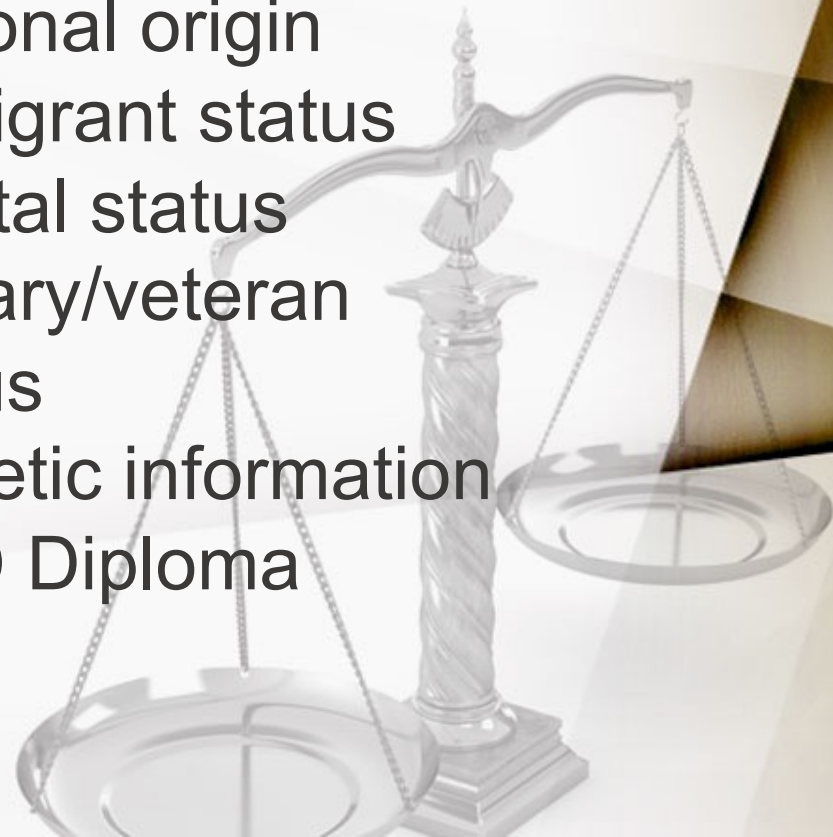
Discrimination – WHAT IS IT?

Very simply, it's treating someone differently (worse) because of their “protected characteristic.”



PROTECTED CHARACTERISTICS

- Sex
- Sexual orientation
- Gender Identity
- Pregnancy
- Disability
- Age
- Religion
- Race
- Color
- Ethnicity
- National origin
- Immigrant status
- Marital status
- Military/veteran status
- Genetic information
- GED Diploma



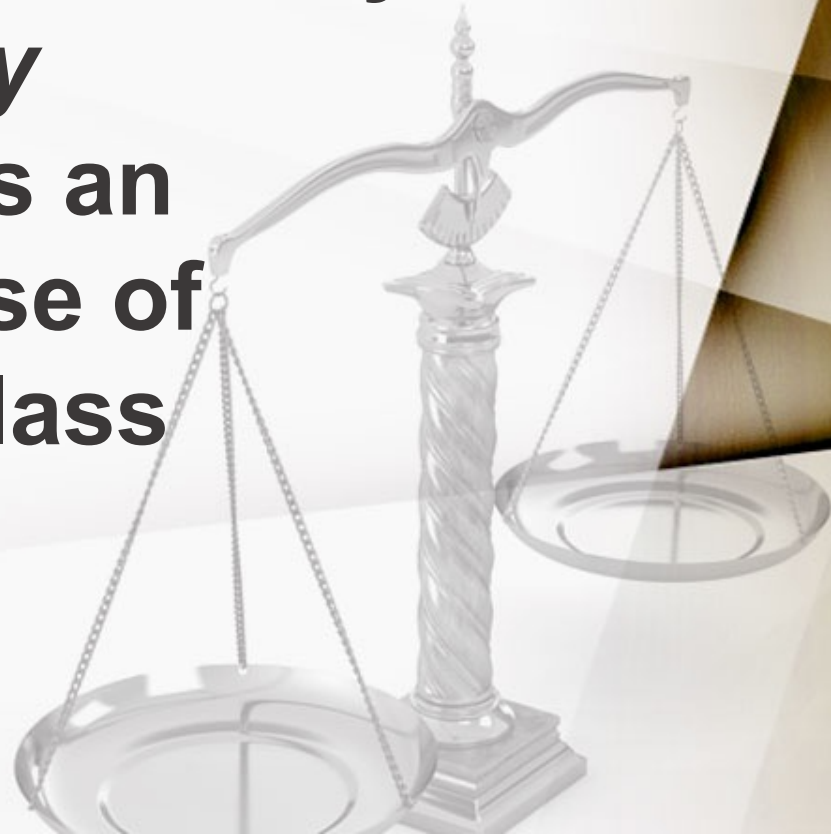
ADVERSE JOB ACTION

- Not Hired
- No Promotion/Raise
- Dismissed



DISPARATE TREATMENT & DISPARATE IMPACT

Policy, procedure, or decision that intentionally or *unintentionally* negatively affects an employee because of their protected class



DISPARATE TREATMENT

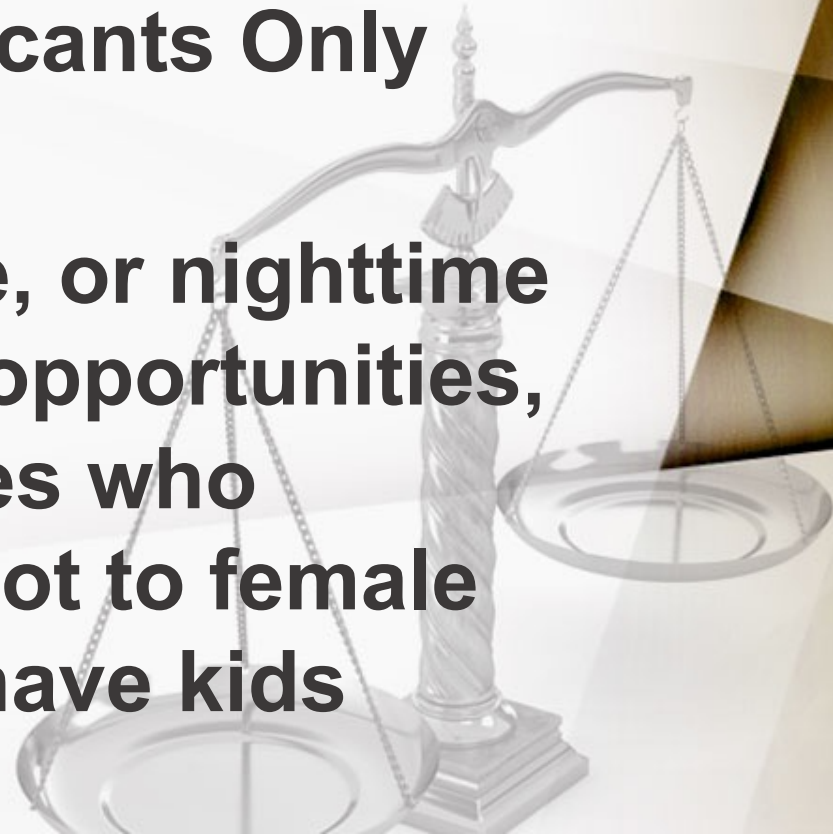
DISPARATE TREATMENT

= Unequal Treatment



DISPARATE TREATMENT EXAMPLES

- **Criminal Background Checks on Minority Applicants Only**
- **Offering overtime, or nighttime client marketing opportunities, to male employees who have kids -- but not to female employees who have kids**



DISPARATE IMPACT

DISPARATE IMPACT

= Equal Treatment,
But Unequal Results



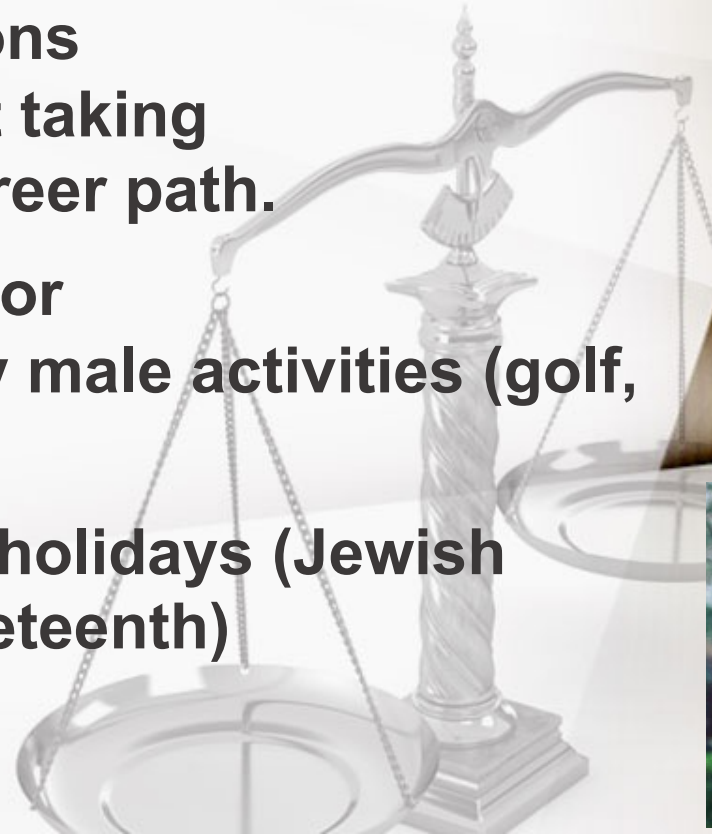
DISPARATE IMPACT

- **Neutral policy.**
- **Not trying to treat them differently.**
- **But, impact is different.**



DISPARATE IMPACT EXAMPLES

- **Company offers free beer after 5pm in the breakroom to team build/socialize. . .
May negatively impact employees whose religions discourage drinking. Not taking part may impact their career path.**
- **Company entertainment or marketing in traditionally male activities (golf, strip clubs)**
- **Activities during others' holidays (Jewish holidays, Ramadan, Juneteenth)**





Harassment

Harassment

**Harassment is not the same
as discrimination**



Preventing Sexual Harassment and Discrimination

- **Quid Pro Quo**
- **Hostile Work Environment**



Quid Pro Quo

- **“This for that”**

Example. . .

- **“If you have sex with me, I’ll give you a raise.”**
- **“If you don’t have sex with me, you won’t get the raise.”**



Quid Pro Quo

Makes submission to sexual conduct, or rejection of sexual conduct (either directly or indirectly) a condition of employment or the basis of an employment decision.



Quid Pro Quo

Occurs with actions directly or indirectly from managers, supervisors, executives, etc. since there is control over employment conditions.



Quid Pro Quo

This is the claim that is often alleged when a personal, sexual or dating relationship ends.



Hostile Work Environment

**Severe
or
Pervasive**



Hostile Work Environment

Occurs with actions directly or indirectly from anyone related to the workplace on-site or off-site:

- **managers**
- **peers**
- **independent contractors**
- **customers**
- **vendors, repair personnel**



Hostile Work Environment - Scope

- **Unwelcomed touching**
- **Propositions and flirtation**
- **Jokes and humor**
- **Leering**
- **Comments about attire**
- **Posters, e-mail and websites**
- **Sexual questions, comments**



Hostile Work Environment - Unintended

What happens if someone is “accidentally” exposed to your comments? Examples:

- **finds copy on the machine**
- **has email or text forwarded to them**
- **overhears conversation**



Hostile Work Environment - Location

You can get in trouble...

- **at work**
- **at company functions and social events (and before and after)**
- **non-work events with co-workers**
- **high risk locations (e.g. Hooters)**



Hostile Work Environment- Social Media

- **Email**
- **Text**
- **Facebook**
- **Twitter**
- **Instagram**
- **Blogs**
- **Review sites**

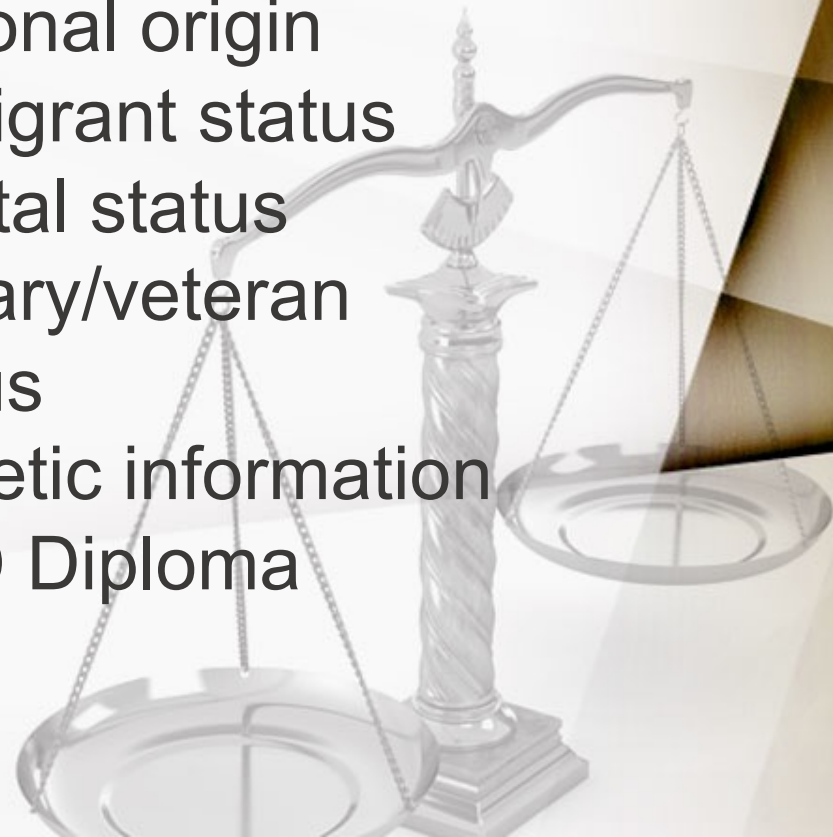




Other Harassment and Discrimination

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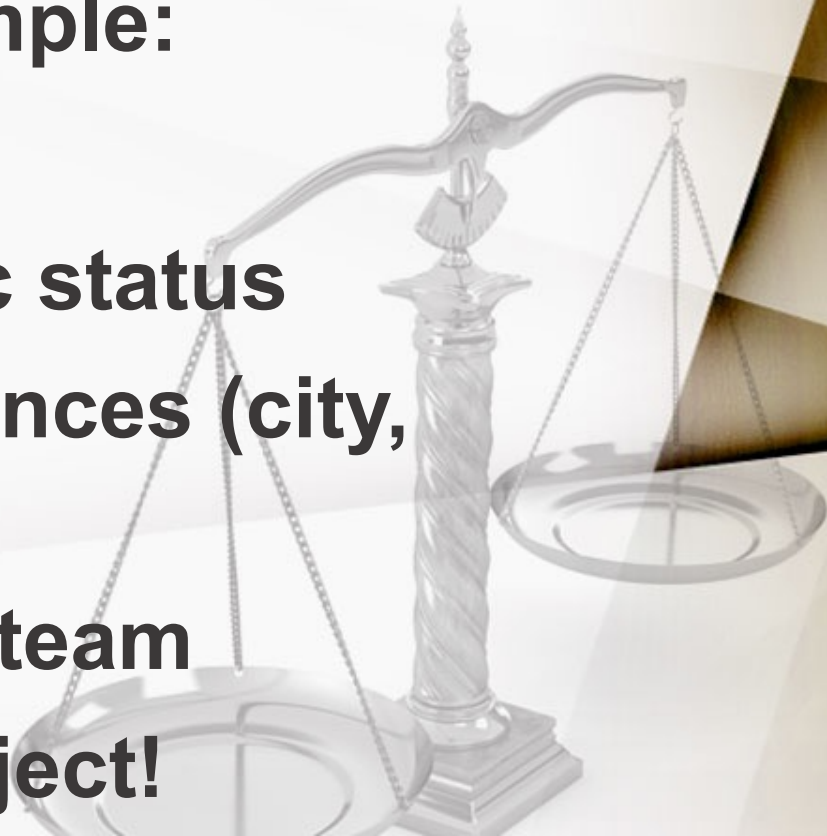


Other Harassment and Discrimination

Sensitivity Generally

Not protected by law, but still sensitive, for example:

- **Political speech**
- **Socio-economic status**
- **Regional differences (city, state, country)**
- **Favorite sports team**
- **Almost any subject!**





Implicit Bias

Implicit Bias

“Implicit,” “hidden” or
“unconscious” assumptions

- Biases are prejudices in favor of, or against, a person or group
- Bias is pre-judging in a positive or negative way.



Implicit Bias

Individuals can harbor unconscious prejudice about a variety of characteristics (not just skin color or gender), such as:

- Height and weight
- Use of a wheelchair or cane
- Foreign accents
- Where someone attended college
- Someone who is hearing impaired



Implicit Bias at Work

In the workplace, implicit bias can influence:

- Recruitment methods
- Hiring
- Promotions
- Assignments
- Compensation
- Terminations



Implicit Bias Examples

- “Doctor riddle” from the 1970s

And the answer is. . .



Implicit Bias Examples

“Doctor riddle” from the 1970s

The surgeon is the boy’s mother!

In 2023, the surgeon could of course also be the boy’s father – the boy has two fathers.



Institutional Bias

Some reasons:

- “We’ve always done it that way”
- Similar type people making decisions
- Company history of treating certain groups



Microaggressions

- Comments or actions that send a message of bias.
- Conscious or unconsciously used.
- Hurtful to recipient
- Perpetuates bias



Microaggressions - Examples

“Complimenting” performance in a demeaning way:

- To a female mechanical engineer: *“You really know your subject”*
- To an Asian-American office worker: *“You are very articulate”*
- To a male kindergarten teacher: *“I think it’s great how you can be so nurturing to the kids.”*



Microaggressions - Examples

- Using male pronouns and terms: “You guys” or “he” to describe everyone
- Insulting expressions: “Indian giver”
“That’s so gay” “You throw like a girl”
- Demeaning LGBTQ+ individuals: “I have a neighbor who is a lesbian – maybe you know her?”
- “Where are you from?”
- “I wouldn’t even know you have a disability, you act normal”



Can I make fun of myself?

- I can call that guy a “wop” because I’m Italian
- I can say “that’s retarded” because I have a special needs child
- I can make jokes about my black colleagues working on the plantation, because I’m black





Handling an Incident

Handling an Incident

What Do You Do?

First, try to work it out.



Handling an Incident

What Do You Do?

Tell the offender:

- you don't appreciate the conduct, it makes you feel uneasy, uncomfortable, etc.
- to stop

**No obligation to do this,
however**



Handling an Incident

Who Do You Tell?

In writing or in person,
tell:

- **Immediate Supervisor**
- **Human Resources**



Handling an Incident

Complain or don't complain: do not make an "informal" complaint by asking someone not to take action. They will anyway.



Are You A Bystander?

- **Address the act at the time**
- **Address the act later**
- **Check on the victim later**
- **Make a complaint**
- **Cooperate with the investigation**



Handling an Incident – For Managers

Reminder for Managers:
If you become aware of
a problem from *any*
source, pass it along.



Handling an Incident - Investigation

Investigation

- Extent of investigation depends on circumstances
- Do not expect absolute confidentiality



Handling an Incident – Action / Discipline

Action and/or Discipline

Extent of action and/or
discipline depends on
circumstances



Handling an Incident – No Retaliation

- **No retaliation for making good faith, true and accurate complaint (even if wrong!)**
- **Alleged harasser must not retaliate at any time**



Handling an Incident – No Retaliation

Acts of retaliation have a broad scope; they include *anything* that might deter someone from complaining





Questions?



Specifically for Managers. . .

Manager Point #1

“You are they”

The company acts through its employees – meaning you. What you do, the company does. Often, there is no “they.”



Manager Point #1

“You are they”

Pursuant to some statutes, managers, supervisors and decision makers have personal liability to employees.



Manager Point #2

DOCUMENT

and

NOTIFY

HUMAN RESOURCES



Documenting Performance Issues

Be fair, firm and consistent

Evaluations, reviews and disciplinary notices are frequently used in litigation



When should you notify HR?

- Any communication from an employee that is an HR request or complaint.

- Any performance issues or violations of company policy.



When should you notify HR?

- A third party or anonymous report.
- When you witness something.
- Don't wait or defer! Notify ASAP.



What is a complaint or a request?

Complaint of harassment or discrimination

Complaint about pay, leave or medical

Complaint about different treatment

Request for investigation

Request for accommodation due to health or
medical issues

**Complaint does not have to be in writing



Manager Point #3 - Confidentiality

When you resolve and/or notify, do so as confidentially as possible and maintain confidentiality thereafter.

*This does not mean keep confidential from HR or management.



Manager Point #4 - No Promises or Rejections

Be extremely careful about what you say, verbally or in writing, to employees.

Remember Manager Point #1
“You Are They”



Manager Point #4 - No Promises or Rejections

Often, “helpful” and “sympathetic” statements to the employee are just as harmful as negative statements.



Manager Point #4 – No Promises

Positive Statements

For example, do not say:

“Take as much time as you need”

“Whatever you need to do”

“You can always come back to your position”

“We’ll hold open your job”

“Don’t worry, you can’t be fired if you’re really sick”



Manager Point #4 – No Rejections

Negative Statements

For example, do *not* say:

“Sorry, we won’t be able to hold your job open”

“Do you know how inconvenient that is for me?”

“That’s not that serious, you’ll be back soon”

“Being out that long could affect your position”

“Taking time off isn’t smart in this environment”

“The company can fire you anytime they want”



Manager Point #5

Lead by example!

- Words (what you say)
- Actions (what you do)
- Inaction (what you don't do)
- Directives (what you tell others to do)





Questions?



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