

Discrimination 101: Understanding the Basics (to avoid the Complicated)

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Workplace Discrimination

- Charges of discrimination are on the rise.
 - In 2020, the number of discrimination charges filed in Nebraska more than tripled.



Which Laws Make Discrimination Unlawful?

- Title VII
- Equal Pay Act
- Age Discrimination in Employment Act
- Americans with Disabilities Act
- Genetic Information Nondisclosure Act

Prohibited Types of Discrimination

- Race
- Color
- National Origin
- Religion
- Sex
- Age
- Disability
- Retaliation

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The *Prima Facie* Case

- (1) Belongs to a protected class;
- (2) Suffered an adverse employment action;
- (3) Met his or her employer's legitimate expectations;
and
- (4) Was treated differently from similarly situated
employees outside of his or her protected class.

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The *Prima Facie* Case, contd.

- (1) Is disabled;
- (2) Is qualified to carry out the essential functions of
the job with or without a reasonable accommodation;
and
- (3) Suffered an adverse employment action under
circumstances giving rise to an inference of unlawful
discrimination.

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The *Prima Facie* Case, contd.

- (1) He or she engaged in a protected activity;
- (2) Suffered an adverse employment action;
- (3) A causal connection exists between the two events.

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The Employer's Defense

- For any adverse employment action the employer must present a legitimate, non-discriminatory reason for its action.

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The Employer's Defense, contd.

- This legitimate, non-discriminatory reason must not be pretext for discrimination.

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Harassment

- **Hostile Work Environment:** when the conditions of the work environment are severe and pervasive to change the terms and conditions of employment.
- **Quid Pro Quo:** a type of sexual harassment that is the exchange of sexual favors for some job-related benefit.

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The Process

- Charge
- Response
- Investigation
- Agency Determination
- Lawsuit

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How Can Employers Protect Themselves?

- Understand compliance obligations.
- Create written policies and job descriptions.
- Train your employees.
- Follow your policies and procedures!
- Be consistent.

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Questions?

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