

# 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