



School Law FYI

U.S. Supreme Court Eases Standard for Plaintiffs To Prove “Reverse Discrimination” Claims

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Title VII prohibits employers from discriminating on the basis of race, gender (including sexual orientation and gender identity), religion, color, and national origin. These protections apply equally to all individuals regardless of whether they are a member of a minority group with respect to those traits. Stated a different way, with respect to race, white individuals receive the same protections under Title VII as people of color.

However, because Title VII was enacted in response to discrimination against minority groups, some courts had required plaintiffs from majority groups to offer more evidence of discrimination to prove their case. These courts had generally required majority group plaintiffs to show “background circumstances to support the suspicion that the defendant is that unusual employer who discriminates against the majority.”

THE CASE

Recently, the U.S. Supreme Court held in *Ames v. Ohio Department of Youth Services* that this additional evidence requirement is *not* required for majority group plaintiffs to prove discrimination. That case involved a heterosexual woman, Marlean Ames, who was passed over for a promotion and a lesbian woman was hired to fill that position. Ms. Ames was then demoted from her role as a program administrator, and a gay man was later hired as a program administrator. Ms. Ames sued her employer alleging discrimination against her based on her heterosexual orientation. The trial court dismissed her claim because she failed to produce evidence of additional

“background circumstances” to show that the employer discriminated against straight individuals. On appeal, the U.S. Supreme Court reversed that requirement and held that all plaintiffs are held to the same burden of proof regardless of whether they qualify as a minority. The Court noted that Title VII’s disparate treatment provisions draw no distinctions between majority-group plaintiffs and minority-group plaintiffs. Rather the language states it is unlawful to refuse to hire or to discharge **any individual**, or otherwise discriminate against **any individual** with respect to compensation, terms, conditions, or privileges of employment because of such individual’s race, color, religion, sex, or national origin.

Moving forward, all claims for intentional discrimination under Title VII will be treated the same regardless of whether a plaintiff belongs to a majority group. Legally, there will no longer be a distinction between discrimination and so-called “reverse discrimination” under Title VII. This decision does not affect the defenses that school districts continue to have. Thus, if districts have legitimate, non-discriminatory reasons for their decision not to hire or promote, they may be able to avoid liability.

CONCLUSION

School districts should continue to carefully assess their hiring and promotion decisions and the reasons they take adverse actions against applicants and employees and should reach out to a member of the Boardman Clark [School Law Practice Group](#) with questions.

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