

## Questions and answers excerpted from the EEOC's enforcement guidance on *Unlawful Disparate Treatment of Workers with Caregiving Responsibilities*.<sup>3</sup>

In 2007, the U.S. Equal Employment Opportunity Commission (EEOC) issued new [Enforcement Guidance](#) illustrating circumstances under which discrimination against a working parent or other caregiver constitutes unlawful disparate treatment under the federal EEO statutes. The Q&A provides some additional clarification.

### **Q: When does discrimination against a worker with caregiving responsibilities constitute unlawful disparate treatment?**

A: Unlawful disparate treatment arises where a worker with caregiving responsibilities is subjected to discrimination based on a protected characteristic under federal EEO law. Generally, this means that, under Title VII of the Civil Rights Act of 1964, unlawful disparate treatment arises where a caregiver is subjected to discrimination based on sex and/or race.

Unlawful disparate treatment of a caregiver also can arise under the Americans with Disabilities Act of 1990 where an employer discriminates against a worker based on his or her association with an individual with a disability.

### **Q: What are some common circumstances under which discrimination against a worker with caregiving responsibilities might constitute unlawful disparate treatment under federal EEO law?**

A: The new enforcement guidance illustrates various circumstances under which discrimination against a caregiver might violate federal EEO law. Examples include:

[Treating male caregivers more favorably than female caregivers](#): Denying women with young children an employment opportunity that is available to men with young children.

Sex-based stereotyping of working women:

- Reassigning a woman to less desirable projects based on the assumption that, [as a new mother, she will be less committed to her job](#).
- Reducing a female employee's workload after she assumes full-time care of her niece and nephew based on the assumption that, [as a female caregiver, she will not want to work overtime](#).

[Subjective decision making](#): Lowering subjective evaluations of a female employee's work performance after she becomes the primary caregiver of her grandchildren, despite the absence of an actual decline in work performance.

[Assumptions about pregnant workers](#): Limiting a pregnant worker's job duties based on pregnancy-related stereotypes.

[Discrimination against working fathers](#): Denying a male caregiver leave to care for an infant under circumstances where such leave would be granted to a female caregiver.

[Discrimination against women of color](#): Reassigning a Latina worker to a lower-paying position after she becomes pregnant.

[Stereotyping based on association with an individual with a disability](#): Refusing to hire a worker who is a single parent of a child with a disability based on the assumption that caregiving responsibilities will make the worker unreliable.

Hostile work environment affecting caregivers:

- Subjecting a female worker to severe or pervasive harassment [because she is a mother with young children.](#)
- Subjecting a female worker to severe or pervasive harassment [because she is pregnant or has taken maternity leave.](#)
- Subjecting a worker to severe or pervasive harassment [because his wife has a disability.](#)