

LEGAL MAILBAG – OCTOBER 22, 2026



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The “Legal Mailbag Question of the Week” is a regular feature of the CAS Weekly NewsBlast. We invite readers to submit short, law-related questions of practical concern to school administrators. Each week, we will select a question and publish an answer. While these answers cannot be considered formal legal advice, they may be of help to you and your colleagues. We may edit your questions, and we will not identify the authors. Please submit your questions to: legalmailbag@casciac.org.

Dear Legal Mailbag,

I am an assistant principal at a middle school, and over the summer, I participated on an interview committee to hire a new seventh grade math teacher. Surprisingly, we had a couple of good candidates. One candidate was a woman who had recently returned to teaching after a break of twelve years to raise her children. She was well-qualified, but the interview committee recommended the other qualified candidate, an energetic young fellow with two years of experience in another school district. We were pleased that the Superintendent liked our choice, and she hired this fellow to start at the beginning of the school year.

I just heard from some lawyer appointed by the district’s insurance carrier that the other leading candidate, the older female, has filed a complaint with the CHRO (the Connecticut Commission on Human Rights and Opportunities), in which she alleges that we discriminated against her on the basis of age and gender. Given my role in the hiring process, this lawyer is now asking me to give him a list of all the applicants for teaching positions at my school for the last ten years, with their age and gender, and who was hired each time. He is also asking me for the form I filled out as part of the interview process.

I don’t see why we have to worry about other applicants from years ago, and I certainly don’t want to turn over my interview form. I may have written “young and energetic” and “new blood” on the form, and in hindsight I am concerned that those comments could be misconstrued.

Can I just “lose” the interview form? And do I really have to dig up application files over those many years?

Signed,
Regretting Candor

Dear Regretting:

Your situation is a cautionary tale for others. Hindsight is a wonderful thing, but you will have to share your interview form. Moreover, the pattern of hiring at your school over a period of years may be relevant information, and you must share that information as well.

Given the insidious nature of discrimination, direct proof of discrimination is not required. Rather, proof of discrimination is often provided through inference. As described almost fifty years ago by our Connecticut Supreme Court:

One who indulges in discrimination does not usually shout it from the housetops. All too frequently persons publicly announce abhorrence of racial prejudice while privately practicing it. In this type of proceeding, therefore, greater latitude is accorded the tribunal to draw inferences from words and deeds than in cases where overt acts need be established.

Reliance Insurance Company v. CHRO, 172 Conn. 485 (1977). Accordingly, the CHRO typically asks for information such as the information requested here to see if there is a pattern from which an inference of discrimination can be drawn.

A pattern of hiring younger teachers could provide a basis for inferring that there has been bias in favor of younger candidates in the district's hiring decisions. However, it may not be reasonable to draw that inference because the age of the candidates is a related fact. If ninety percent of the applicants have been under thirty years of age, for example, a similar percentage of successful candidates would simply be expected, and that percentage would not support an inference that district hiring was biased in favor of younger candidates.

Claims of discrimination in employment fall into two basic categories -- (1) claims of disparate treatment, and (2) claims of disparate impact. As to the latter, a claim of disparate impact is that the employer has adopted a requirement or policy that has an adverse impact on a protected person without a business necessity. *Griggs v. Duke Power Co.*, 401 U.S. 424 (1971). In the *Griggs* case, the United States Supreme Court struck down a company rule requiring that custodial employees have a high school diploma. There, the requirement was imposed after a court had ordered desegregation of the workforce, and it had the effect of excluding racial minorities from the workforce without any legitimate business justification. Any job requirement that has a disparate impact on persons in a protected class (*e.g.*, race, gender, age, religion) must be justified through business necessity. Adjudicating such claims, however, can be complicated. See, *e.g.*, *Ricci v. DeStefano*, 557 U.S. 557 (2009) (white firefighters prevailed on their disparate impact claim on a 5-4 vote of the United States Supreme Court).

Here, you are dealing with a claim of disparate treatment. A member of a protected class may claim that an adverse employment decision, such as a failure to hire or promote, or termination or other disciplinary action, was based on an illegal consideration of the person's protected status, here age and gender. To establish such a claim, the complainant must first present a *prima facie* case, *i.e.*, facts from which one could infer that discrimination occurred. In this case, the unsuccessful applicant would have to show the following:

- that she belongs to a protected class (here, age and gender);
- that she applied and was qualified for the position for which the district was hiring;

- that, despite her qualifications, she was rejected; and
- that the position was filled by a person who was not of the same protected class(es).

McDonnell Douglas Corp. v. Green, 411 U.S. 792 (1973).

Once a complainant has made this showing (as is the case here), to rebut the claim, an employer will have to show legitimate, nondiscriminatory reasons for its decision, such as the fact that the successful candidate was more qualified. Once the employer presents such reasons for its decision, the complaint must be dismissed unless the complainant can show that the employer's claimed reason for its action was merely a pretext for a discriminatory action. In any event, the burden of proof remains with the complainant in discrimination cases throughout this back-and-forth process.

Sadly, your comments on the interview form may play a role in the determination of whether the district's decision was based on legitimate, nondiscriminatory reasons or was based on bias against older applicants. Legal Mailbag does not have enough facts to predict the outcome of the claim here, but one thing is certain – do not “lose” your interview form! If records relevant to prospective or pending litigation are destroyed, the courts may consider such action to be “spoliation” of evidence, with the consequence that adverse inferences are drawn against the party that destroyed the evidence. See, e.g., *Byrnie v. Town of Cromwell*, 243 F.3d 93 (2d Cir. 2001). For better or worse, your notes are what they are. But it could definitely be worse for the district if you do not keep records created during the interview process. The inferences that could be drawn against you and the district in such case could be much worse than whatever inference can be drawn from your ill-advised comments (“new blood” and “young and energetic”) on the interview form.