



Managing Fair Lending Risk

II. Concepts of Disparate Treatment and Disparate Impact

Concept of Disparate Treatment

Disparate Treatment

Overt Discrimination

Comparative Evidence of Discrimination

Disparate Treatment

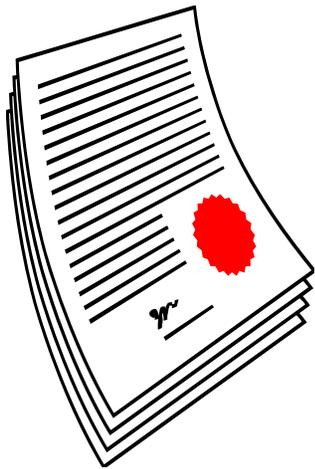
Overt Discrimination

Occurs when a lender openly discriminates on a prohibited basis.

Can be a written policy or an oral statement.

Example of Overt Discrimination

Bank's Loan Policy



“....For joint credit applications, combine the debts and the income of married joint applicants to calculate the debt-to-income ratio and for unmarried joint applicants, calculate an individual debt-to-income ratio for each applicant.”

Example of Overt Discrimination



Credit Card A: \$750 for age 21-30



Credit Card B: \$1,500 over age 30

Disparate Treatment

Comparative Evidence

Treatment of a credit applicant differently based on one of the prohibited bases.

Differences in treatment are not fully explained by legitimate nondiscriminatory factors.

Does not require any evidence that the treatment was motivated by prejudice or that the creditor intended to discriminate against a particular person.

Example of Comparative Evidence



Non-Hispanic White Applicants

Credit Profile

- ✓ Bankruptcies
- ✓ Charge-Offs
- ✓ Collections



Blacks and Hispanics Applicants

Credit Profile

- ✓ Bankruptcies
- ✓ Charge-Offs
- ✓ Collections

Example of Comparative Evidence

| Borrower | Number of Home Purchase Loans | Average Interest Rate |
|--------------------|-------------------------------|-----------------------|
| Hispanic | 25 | 16% |
| Non-Hispanic White | 30 | 8.5% |

Concept of Disparate Impact

Disparate Impact

Apparently neutral policy or practice applied equally to all applicants.

Policy or practice disproportionately excludes or burdens certain groups of people on a prohibited basis.

Concept of Disparate Impact

If a policy or practice that has a disparate impact on a prohibited basis can be justified by a business necessity, it still may be discriminatory if an alternative policy or practice could serve the same purpose with less discriminatory effect.

Example of Disparate Impact

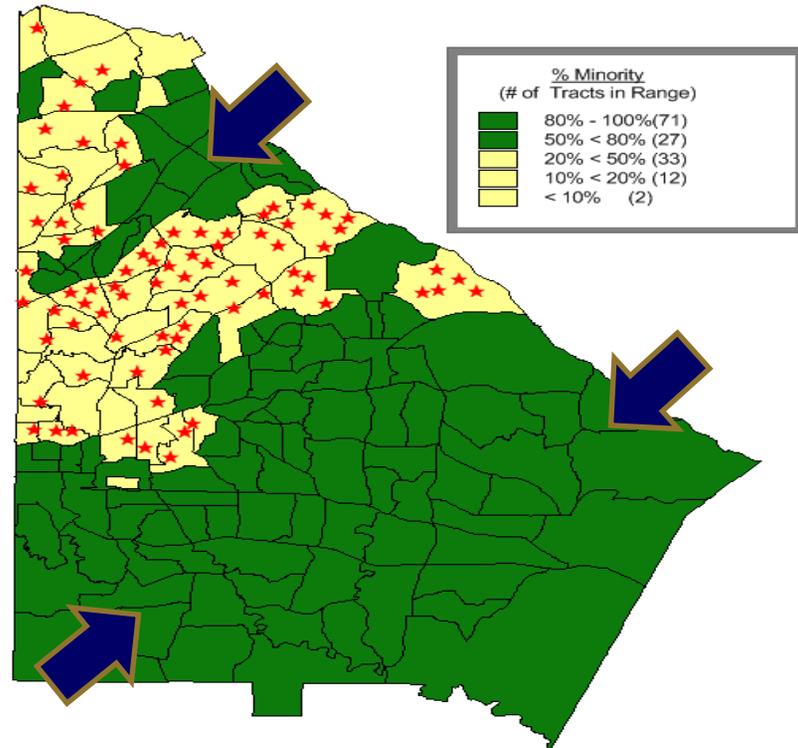
ABC Bank

- Minimum loan amount: \$250,000

Average Home Value in minority neighborhoods is less than \$250,000

★ = loan

Policy results in no loans in minority neighborhoods



SUMMARY

Disparate Treatment can occur when there is:

- **Overt Discrimination.**
- **Lender treats a credit applicant differently on a prohibited basis, and the difference is not explained by non-discriminatory factors.**

Disparate Impact occurs when:

- **Lender applies an apparently neutral policy or practice equally, but the policy or practice disproportionately excludes or burdens a prohibited basis group.**