2. **Disparate Treatment Law**

In the absence of direct evidence of discrimination, a claim alleging disparate treatment is examined under the three-part test set forth in McDonnell-Douglas. Under this analysis, a complainant initially must establish a prima facie case of discrimination by presenting facts that,

if unexplained, reasonably give rise to an inference of discrimination. St Mary's Honor Center. v. Hicks, 509 U.S. 502, 507 (1993); Texas Department of Community Affairs v. Burdine, 450 U.S. 248, 252-53 (1981); McDonnell-Douglas, 411 U.S. at 802. The burden then shifts to the agency to articulate a legitimate, nondiscriminatory reason for the challenged actions. Burdine, 450 U.S. at 253-54; McDonnell-Douglas, 411 U.S. at 802. Ultimately, a complainant must prove, by a preponderance of the evidence, that the agency's articulated reason for its actions was not its true reason, but a sham or pretext for unlawful discrimination. Reeves v. Sanderson Plumbing Products, Inc., 530 U.S. 133, 143 (2000); Hicks, 509 U.S. at 511; Burdine, 450 U.S. at 252-53; McDonnell-Douglas, 411 U.S. at 804.

In the case at bar, the Complainant can establish a prima facie case of discrimination by showing that: (1) she is a member of a protected class; (2) she was qualified for the position at issue; (3) she was not extended in her appointment; and, (4) an individual outside of her protected class was treated more favorably. Lucas v. Department of the Army, EEOC Appeal No. 01A43697 (March 30, 2005); Williams v. Department of Education, EEOC Request No. 05970561 (August 6, 1998); Enforcement Guidance on O'Connor v. Consolidated Coin Caterers Corp., EEOC Notice No. 915.002 (September 18, 1996).

Pretext can be demonstrated by "showing such weaknesses, implausibilities, inconsistencies, incoherencies, or contradictions in the [agency's] proffered legitimate reasons for its action that a reasonable fact-finder could rationally find them unworthy of credence." Dalesandro v. U.S. Postal Service, EEOC Appeal No. 01A50250 (January 30, 2006) (citing Morgan v. Hilti, Inc., 108 F.3d 1319, 1323 (10th Cir. 1997)).