

WHAT IS DISPARATE IMPACT AND WHY DOES IT MATTER?

Disparate impact is a legal standard in federal civil rights law that allows policies that cause unequal harm to people to be challenged, **even without proof of discriminatory intent**.

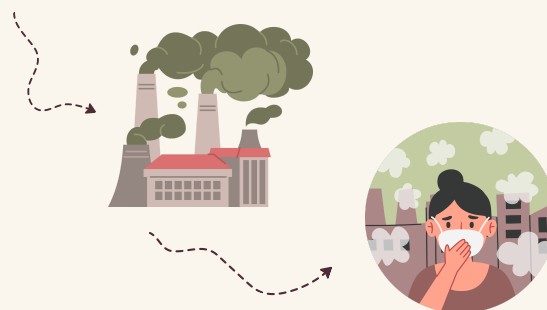
It applies when harm falls on people because of race, national origin, or other protected characteristics. **It exists because intent is easy to deny, but harm is not.**

Under current civil rights law, this kind of unequal harm can be challenged and corrected, even if there isn't proof of intent. That ability to challenge harmful policies is now at risk.

On December 9, 2025, the Justice Department changed its rules under Title VI of the Civil Rights Act of 1964 so it **will no longer step in when federally funded programs cause unequal harm**, unless there is proof of intentional discrimination.

AN EXAMPLE OF DISPARATE IMPACT:

A city approves new industrial facilities in one area of town instead of another.



The decision doesn't mention race, but it results in more pollution and health risks in neighborhoods where high concentrations of people of color live.

WHY DOES IT MATTER FOR CLIMATE JUSTICE WORK?

- Makes it harder to challenge unequal harm
- Weakens federal enforcement on environmental equity
- Shifts the burden to states and communities
- Removes incentives to prevent harm upfront

See our [update](#) for what's changed since, including EPA's move to roll back its own civil rights rules. More information available [here](#) | Contact us: team@upright-services.com

TAKING BACK THE NARRATIVE:

Accountability isn't the same as discrimination.

Measuring unequal outcomes doesn't create injustice, it exposes it.



Unequal outcomes don't happen by accident.

From redlining to highway placement, policies have repeatedly concentrated harm in communities of color.

Requiring proof that harm was intentional shields powerful institutions while leaving communities unprotected.

Proving intent sets an almost impossible bar. What we can see is who breathes the pollution, who loses housing, and who pays the price.

Fairness is measured in outcomes, not intentions.

Don't ask us to trust fairness, prove it. Fairness means taking responsibility for outcomes, not just intentions.

WHAT CAN BE DONE NOW:



Use state and local protections: Even though protections vary, many states still allow policies to be challenged based on unequal impact, and those tools matter more than ever.



Document harm early: Build a record of data, testimony, and impact evidence that can support legal or regulatory action as federal enforcement narrows



Build political pressure: Regulatory rollbacks can be reversed, but only if they carry real political cost, including public scrutiny, organized opposition, and consequences at the ballot box.

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