

# Weight Discrimination and Women

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## What is Weight Discrimination?

Weight discrimination (WD) is an established phenomenon that has increased in prevalence along overweight and obesity (OW/OB) in the U.S. WD can occur in a variety of circumstances, most notably during hiring, employment, health care services, social interactions, and education. In addition to disparities stemming directly from these situations, WD can indirectly lead to or exacerbate other socioeconomic disparities associated with OW/OB.

WD is usually associated with one or more of the following: a) stereotypes about the personality and/or behavior traits of OW/OB individuals; b) concerns about the health costs associated with OW/OB; c) the belief that weight is a matter of personal responsibility and therefore WD is justifiable; d) the belief that WD might motivate OW/OB individuals to lose weight. However, evidence does not support these negative personality or behavioral stereotypes commonly associated with WD.

In the present study, existing data was collected from secondary sources regarding WD and specifically, its effects on women, and analyzed using a variety of methods. Types and consequences of WD as well as legal precedents were analyzed in terms of sex. Findings and recommendations are discussed henceforth.

## Employment-Related Disparities

**Virtually all studies of WD and the employment process (career counseling, hiring, wages, promotions, job assignment, performance reviews, discipline, and discharge) have reported WD against OW/OB individuals. Often, it is reported that women face greater risk and/or severity of WD:**

**Hiring:** OW/OB individuals are less likely to be hired than their standard-weight counterparts (SWC). OW/OB individuals are rated as less qualified, less desirable to work with, and more negatively on personal characteristics than their SWC. However, OW/OB women are also less likely to be hired than OW/OB men. Several studies have found that no significant hiring penalty exists for men with a mildly obese body mass index (BMI) and that men in this category may even have a hiring *advantage*; yet, the preferred hiring BMI for women is actually below a standard BMI.

**Wages:** Wage consequences of OW/OB differ between men and women. Women begin experiencing wage penalties at mild obesity; conversely, wages for mildly obese men are actually *higher* than those of their SWC and mildly obese women. Wage penalties do not begin for men until they are morbidly obese. Wage penalties for women increase with weight and have been calculated to range from 5.9-24%; for men the highest calculated penalty is 19.6%.

**Performance reviews:** OW/OB individuals are rated more poorly than non-OW/OB individuals on work-related personality traits and judged more negatively compared to non-OW/OB employees.

**Job assignment:** compared to non-OW/OB candidates, OW/OB individuals are less likely to be hired for positions involving certain formats of sales interactions and are less likely to be assigned challenging or desirable sales territories. Furthermore, OW women are less likely to be assigned to desirable territories than OW men.

**These disparities may also be influenced by employers' own sex and weight. In some studies, women have been shown to judge OW/OB women more harshly than do men, while in other men have been more likely to discriminate against OW/OB women. Some studies have demonstrated a relationship between evaluators' personal body satisfaction and/or BMI and their likelihood of WD against others.**

## Health Disparities

WD is also present in the field of health care. Studies have found that that health care providers spend less time with, are more critical of, and provide less education to OW/OB patients compared to non-OW/OB patients. Health care providers, like employers, negatively characterize OW/OB patients' personality and behavioral traits. Health care providers characterize OW/OB patients as lazy, lacking in self-discipline, dishonest, unintelligent, annoying, and noncompliant with treatment.

Evidence does not support these personality or behavioral stereotypes, nor does it suggest that WD is helpful in motivating individuals to lose weight. WD may actually be detrimental to the weight loss process because discrimination can elicit stress and behavioral responses that may lead to weight gain.

OW/OB patients frequently report having experienced WD from health care providers or during medical exams. OW/OB patients are less likely than others to adhere to standard screening recommendations. Many OW/OB women cite lack of body-weight appropriate supplies and provider attitudes as reasons for delaying treatment or screenings. The percentage of women reporting that they delayed routine gynecological screenings due to fear or past experience with WD increased with BMI, to up to 69% in the highest weight group surveyed.

**Because OW/OB patients may be at greater risk for certain health conditions, WD that leads to delayed health care can have severe personal and public health implications.**

## Social Disparities

**Education:** OW/OB individuals are less likely than non-OW/OB individuals to receive academic or career counseling, academic support, or to have completed as many years of school. OW/OB women are less likely to receive optimistic career advice or letters of recommendation than are non-OW/OB women.

**Marriage:** OW/OB women are substantially less likely to be married than non-OW/OB women. This may contribute in part to income disparities noted between the two groups even when other socioeconomic and demographic factors are controlled for.

**Business:** OW/OB individuals are less likely to receive help and experience longer wait times in situations such as shopping. Landlords may be less likely to rent to OW/OB individuals.

**Both men and women are likely to discriminate against individuals of the same and opposite sex on the basis of weight. Women may WD against other women and men against other men, and men and women are likely to discriminate against one another on the basis of weight.**

## Legal Disparities

The first major WD lawsuit and a majority of subsequent WD lawsuits have been filed by female plaintiffs. However, the status of OW/OB as a protected disability under state and federal law has not been definitively established yet and therefore few anti-WD lawsuits, include the majority of those filed by females, have found in favor of the plaintiff(s). Generally, WD claims made under the Americans with Disabilities Act (ADA) have only been successful when they are able to prove that discrimination occurred on the basis of a *perceived* disability.

Because women begin suffering WD at lower levels of OW/OB at levels far below that at which it could be reasonably argued that an employer discriminated on the basis of a perceived disability due to OW/OB, the law does not provide women equal protection from WD.

Theoretically, WD claims could be made under the disparate treatment or impact clauses of Title VII of the Civil Rights Act of 1991. However Equal Employment Opportunities Commission (EEOC) regulations state that "except in rare circumstances obesity will not be covered." Few state or local laws provide OW/OB job candidates additional protections.

## Recommendations

1. Anti-WD efforts should be pursued as both civil rights and women's rights issue.
2. Legal remedies should be pursued to afford OW/OB individuals basic protections and accommodations under existing laws and to ensure women have equal protection against WD. State and local laws offer starting points, while federal law and court precedent offer others.
3. Strategies should be developed and implemented to counter unfounded bias and negative stereotypes about the personality and behavioral traits of OW/OB individuals. These strategies should be applied to medical and work environments. Even if their efficacy remains uncertain, it may be helpful, especially in tandem with the expansion of existing anti-discrimination laws to WD, to include anti-WD training in other sensitivity training exercises.
4. Measures should be put in place to limit opportunities for pre-employment WD, such as phone interviews instead of in-person interviews.

## Weight Discrimination and Women

Men and women face the same types of penalties associated. However, as with many other forms of bias, women are disproportionately affected by WD. Compared to men, OW/OB women are more frequently and more harshly discriminated against. Legal precedent regarding WD reinforces the disparate application of WD against women. Combined with other socioeconomic disparities, WD against women can undermine women's financial stability and health and poses a significant public health, legal, and social justice challenge.

## Racial Disparities

For OW/OB women, non-white race may serve as a protective factor against WD. White women face WD more severely and at lesser weights than women of other races or men. White women begin suffering wage penalties when they are mildly OB, but several studies have failed to find any significant weight-related wage penalties for African American women. White women suffer a greater wage penalty for being 20% over their standard weight counterparts (SWC) than do black men who weigh 100% over their SWC.