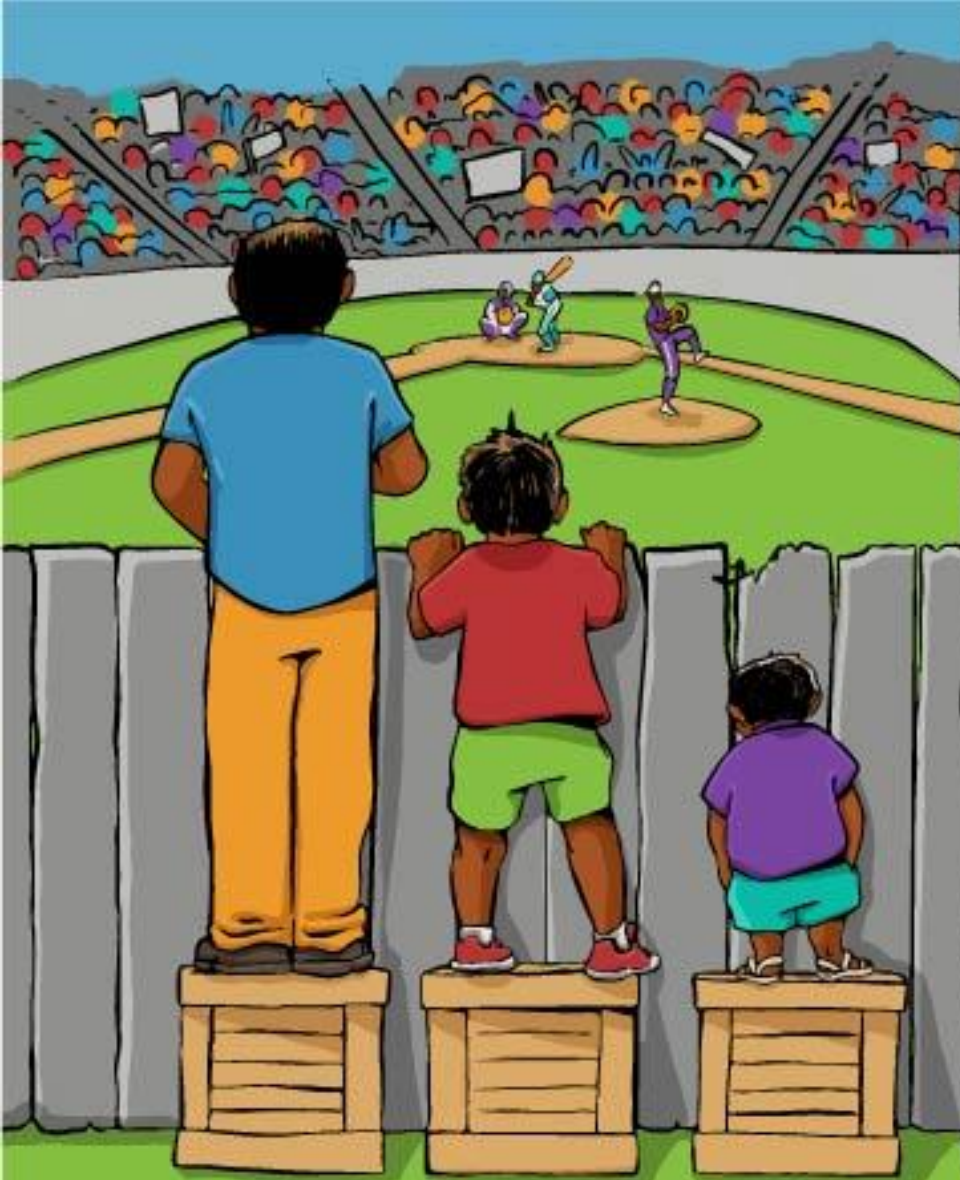


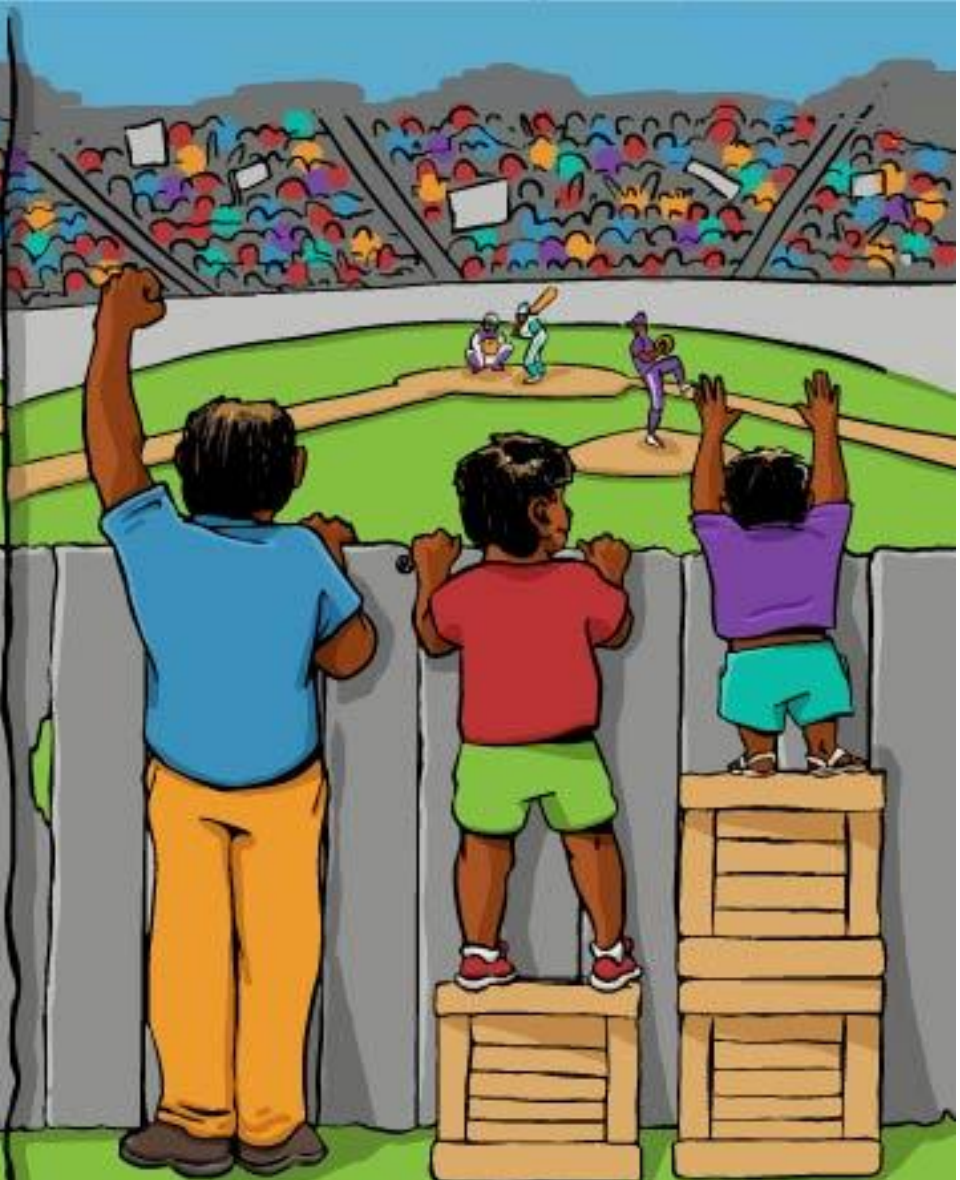
# How Workplace Equity Laws Perpetuate Inequity

2025 AALS Annual Meeting  
Section on Law Professors with Disabilities and Allies  
Works-in-Progress Session for Junior Scholars  
January 11, 2025

**Prof. Margaret H. Zhang**  
Assistant Professor  
Widener University Delaware Law School



**EQUALITY**



**EQUITY**

# Workplace equality vs. workplace equity

## Workplace equality laws

- Title VII of the Civil Rights Act of 1965 (race, color, sex, national origin, religion)
- Americans with Disabilities Act (ADA) (disability)
- Antiretaliation provisions

## Workplace equity laws

- ADA accommodations
- FMLA job-protected unpaid leave
- Pregnant Workers Fairness Act (PWFA)
- *New frontiers: paid family leave, paid sick days*

# Workplace equity laws introduce administrative burdens

Equality:  
ADA nondiscrimination



e.g., visibly disabled



no admin needed



Can prevail if discriminated against

Equity:  
ADA accommodations



e.g., visibly disabled



Administrative burden:  
**worker** provides notice and/or  
documentation



Can prevail if not accommodated

# Workplace equity laws introduce administrative burdens—which perpetuate inequity

Equality:  
ADA nondiscrimination



e.g., visibly disabled



no admin needed



Can prevail if discriminated against

Equity:  
ADA accommodations



e.g., visibly disabled



no admin:  
**worker** does not claim;  
**employer** does not offer



Cannot prevail if not  
accommodated

# Reducing administrative burdens under workplace equity laws

## Eliminate unnecessary burdens

- Automatic enrollment
- Eliminating documentation requirements

## Share burdens with employers or third parties\*

*\*if they have administrative capacity*

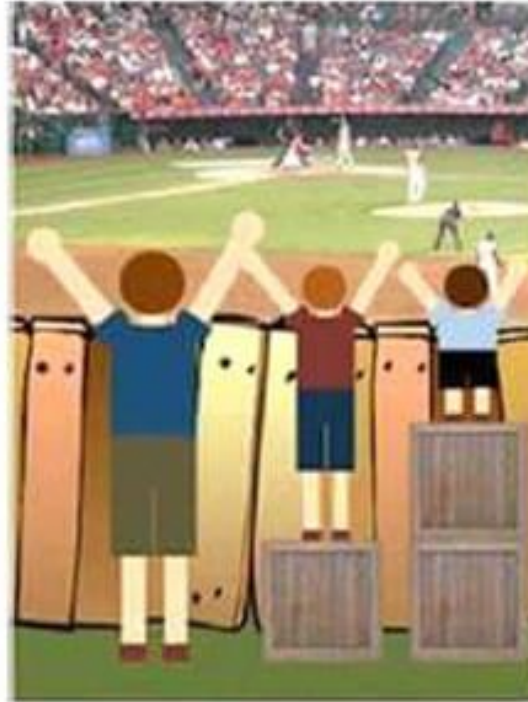
- Streamline paperwork
- Navigators
- Sharing costs



# Workplace equity vs. workplace justice



In the first image, it is assumed that everyone will benefit from the same supports. They are being treated equally.



In the second image, individuals are given different supports to make it possible for them to have equal access to the game. They are being treated equitably.



In the third image, all three can see the game without any supports or accommodations because the cause of the inequity was addressed. The systemic barrier has been removed.