

(5) Little evidence was submitted by employers which showed actual attempts to accommodate religious practices with resultant unfavorable consequences to the employer's business. Employers appeared to have substantial anticipatory concerns but no, or very little, actual experience with the problems they theorized would emerge by providing reasonable accommodation for religious practices.

Based on these findings, the Commission is revising its Guidelines to clarify the obligation imposed by section 701(j) to accommodate the religious practices of employees and prospective employees.

PART 1606—GUIDELINES ON DISCRIMINATION BECAUSE OF NATIONAL ORIGIN

Sec.

1606.1 Definition of national origin discrimination.

1606.2 Scope of title VII protection.

1606.3 The national security exception.

1606.4 The bona fide occupational qualification exception.

1606.5 Citizenship requirements.

1606.6 Selection procedures.

1606.7 Speak-English-only rules.

1606.8 Harassment.

AUTHORITY: Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e *et seq.*

SOURCE: 45 FR 85635, Dec. 29, 1980, unless otherwise noted.

§ 1606.1 Definition of national origin discrimination.

The Commission defines national origin discrimination broadly as including, but not limited to, the denial of equal employment opportunity because of an individual's, or his or her ancestor's, place of origin; or because an individual has the physical, cultural or linguistic characteristics of a national origin group. The Commission will examine with particular concern charges alleging that individuals within the jurisdiction of the Commission have been denied equal employment opportunity for reasons which are grounded in national origin considerations, such as (a) marriage to or association with persons of a national origin group; (b) membership in, or association with an organization identified with or seeking to promote the interests of national origin groups; (c) attendance or participation in schools, churches, temples or mosques, generally used by persons of a

national origin group; and (d) because an individual's name or spouse's name is associated with a national origin group. In examining these charges for unlawful national origin discrimination, the Commission will apply general title VII principles, such as disparate treatment and adverse impact.

§ 1606.2 Scope of title VII protection.

Title VII of the Civil Rights Act of 1964, as amended, protects individuals against employment discrimination on the basis of race, color, religion, sex or national origin. The title VII principles of disparate treatment and adverse impact equally apply to national origin discrimination. These Guidelines apply to all entities covered by title VII (collectively referred to as "employer").

§ 1606.3 The national security exception.

It is not an unlawful employment practice to deny employment opportunities to any individual who does not fulfill the national security requirements stated in section 703(g) of title VII.¹

§ 1606.4 The bona fide occupational qualification exception.

The exception stated in section 703(e) of title VII, that national origin may be a bona fide occupational qualification, shall be strictly construed.

§ 1606.5 Citizenship requirements.

(a) In those circumstances, where citizenship requirements have the purpose or effect of discriminating against an individual on the basis of national origin, they are prohibited by title VII.²

(b) Some State laws prohibit the employment of non-citizens. Where these laws are in conflict with title VII, they are superseded under section 708 of the title.

¹See also, 5 U.S.C. 7532, for the authority of the head of a Federal agency or department to suspend or remove an employee on grounds of national security.

²See *Espinoza v. Farah Mfg. Co., Inc.*, 414 U.S. 86, 92 (1973). See also, E.O. 11935, 5 CFR 7.4; and 31 U.S.C. 699(b), for citizenship requirements in certain Federal employment.