

National Origin Discrimination

The Office of Civil Rights (OCR) manages the Department of Commerce's Equal Employment Opportunity (EEO) Complaint Process and other EEO programs. This fact sheet includes basic information about national origin discrimination, which is prohibited by Title VII of the Civil Rights Act of 1964.

Q. What protections do Commerce employees and job applicants have from national origin discrimination?

A. Title VII protects employees and job applicants from employment discrimination based on national origin, as well as race, color, religion, sex, opposition to practices made unlawful by Title VII, and participation in the EEO complaint process and other Title VII proceedings.

Q. What is national origin discrimination?

A. National origin discrimination means treating someone less favorably:

- because that person (or his or her ancestors) comes from a particular place -- i.e., a country; former country; or a place that has never been a country but is closely associated with a national origin group, such as Kurdistan;
- because of his or her ethnicity or accent;

- because it is believed that he or she has a particular ethnic background; or

- because of the persons's marriage or other association with a persons(s) of a particular national origin.

A national origin group or "ethnic group," is a group of people sharing a common language, culture, ancestry, and/or other similar social characteristics. Title VII prohibits employment discrimination against any national origin group, including larger ethnic groups, such as Hispanics and Arabs, and smaller ethnic groups, such as Kurds or Roma (Gypsies). National origin discrimination also includes discrimination against American Indians or members of a particular tribe.

Q. What types of discriminatory practices are prohibited?

A. It is unlawful to discriminate against any employee or applicant for employment because of national origin in regard to hiring, termination, promotion,

compensation, job training, or any other term, condition, or privilege of employment.

Discriminatory practices also include:

- harassment on the basis of national origin;
- retaliation for filing a charge of discrimination, participating in an investigation, or opposing discriminatory practices; and
- employment decisions based on stereotypes or assumptions about the abilities, traits, or performance of certain ethnic groups.

Q. What is unlawful harassment based on national origin?

A. National origin harassment violates Title VII when it is so severe or pervasive that the individual being harassed reasonable finds the work environment to be hostile or abusive. Harassment based on national origin can take many different forms, including ethnic slurs, workplace graffiti, or other offensive con-

duct directed towards an individual's birthplace, ethnicity, culture, or foreign accent. A hostile work environment may be created by the actions of supervisors, coworkers or even nonemployees, such as customers or contractors.

Q. Can a manager base employment decisions on linguistic characteristics, such as accent or fluency in English?

A. Linguistic characteristics are closely associated with national origin, so managers must ensure that the business reasons for reliance on linguistic characteristics justify any burdens placed on individuals because of their national origin.

An employment decision based on **accent** does not violate Title VII if an individual's accent materially interferes with the ability to perform job duties. Managers must distinguish between a merely discernible foreign accent and one that interferes with communication skills necessary to perform job duties.

Generally, an **English fluency** requirement is permissible if required for the effective performance of the job. The degree of fluency that may be lawfully required varies from one posi-

tion to the next, so such rules must be carefully tailored to the requirements of the specific job.

Q. Is it unlawful for an employer to have a Speak English Only rule?

A. Some employers have instituted workplace policies restricting communication in languages other than English, often called "English-only rules."

Title VII permits such rules only under certain circumstances. As with any other workplace policy, an English-only rule must be adopted for nondiscriminatory reasons. It should also relate to specific circumstances in the workplace. An English-only rule is justified by "business necessity" if it is needed for an employer to operate safely or efficiently. Some circumstances in which an English-only rule may be justified are when it is necessary for communication with customers, coworkers, or supervisors who speak only English; or in emergency or other situations in which workers must speak a common language to promote safety.

If an employer institutes such a rule, employees have to be told when they must speak English and the consequences for violating the rule.

Q. How can I raise a claim of national origin discrimination in the EEO complaint process?

A. The first step is to see an EEO Counselor. To preserve your right to file a formal complaint, you must do this within 45 days of the action you believe is discriminatory or when you first knew or should have known of the possible discrimination.

Contact your bureau EEO Officer to initiate counseling. Your EEO Counselor can also give you information about other possible avenues of redress for your claim.

For more information about the EEO complaint process and national origin discrimination:

- see OCR's website at <http://www.osec.doc.gov/ocr>;
- contact your bureau EEO or Civil Rights Office; or
- contact OCR at 202/482-4993. TTY users may call via the Federal Relay Service at 1-800-877-8339.

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