



National Origin Discrimination Compliance Training Sheet

>> National Origin

National origin discrimination means treating someone less favorably because they come from a particular place, are married or associated with someone of a particular nationality, their ethnicity or accent, or because it is believed that they have a particular ethnic background. The following are examples of discrimination which violate Title VII:

Ethnicity: Employment discrimination against members of an ethnic group, for example, discrimination against someone because he is Arab. National origin discrimination also includes discrimination against anyone who does not belong to a particular ethnic group, for example, less favorable treatment of anyone who is not Hispanic.

Physical, linguistic, or cultural traits: Employment discrimination against an individual because she has physical, linguistic, and/or cultural characteristics closely associated with a national origin group.

Perception: Employment discrimination against an individual based on the employer's belief that he is a member of a particular national origin group.

Title VII also prohibits discrimination based on linguistic characteristics common to a specific ethnic group. An employer must show a legitimate nondiscriminatory reason for the denial of employment opportunity because of an individual's accent or manner of speaking. Requiring employees or applicants to be fluent in English or to speak English only in the workplace may also violate Title VII if the rule is adopted to exclude individuals of a particular national origin and is not related to job performance.

Accent discrimination

An employer may not base a decision on an employee's foreign accent unless the accent materially interferes with job performance. This assessment depends upon the specific duties of the position in question and the extent to which the individual's accent affects their ability to perform job duties. Positions for which effective oral communication in English may be required include teaching, customer service, and telemarketing. Even for these positions, an employer must still determine whether the particular individual's accent interferes with the ability to perform job duties. Furthermore, employers cannot reject an applicant solely because their accent would not be a customer preference.

English fluency

A fluency requirement is only permissible if required for the effective performance of the position for which it is imposed. The degree of fluency that may be lawfully required varies from one position to the next, therefore employers should avoid general fluency requirements that may not be applicable in particular positions within the company. The employer should not require a greater degree of fluency than is necessary for the relevant position. As with English fluency requirements, requirements for fluency in foreign languages must actually be necessary for the positions for which they are imposed.

English-only rules

Title VII permits employers to adopt English-only rules under certain circumstances which must be for nondiscriminatory reasons. An English-only rule may be used if it is needed to promote the safe or efficient operation of the employer's business, effectively fulfills the business purpose it is supposed to serve and there is no alternative practice to the language restriction that would accomplish the business purpose equally well with a lesser discriminatory impact. If the employer believes such a rule is necessary, employees must be informed when English is required and the consequences for violating the rule. The following are some situations in which business necessity would justify an English-only rule:

- > For communications with customers, coworkers, or supervisors who only speak English
- > In emergencies or other situations in which workers must speak a common language to promote safety
- > For cooperative work assignments in which the English-only rule is needed to promote efficiency
- > To enable a supervisor who only speaks English to monitor the performance of an employee whose job duties require communication with coworkers or customers

"Employee morale" is not an acceptable reason for implementing an English-only rule. A policy that prohibits some but not all of the foreign languages spoken in a workplace, such as a no-Vietnamese rule, would be unlawful.