

EEOC Releases Updated Guidance on National Origin Discrimination Targeting Anti-American Sentiment

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On November 19, 2025, the United States Equal Employment Opportunity Commission (EEOC) announced in a press release new educational materials regarding national origin discrimination under Title VII. The EEOC released a one-page technical assistance document entitled “Discrimination Against American Workers Is Against the Law” that summarizes workers’ rights with respect to national origin discrimination. The EEOC also updated its national origin discrimination landing page to provide additional information for both workers and employers.

In the technical assistance document, the EEOC defines unlawful national origin discrimination as “policies, programs, or practices” that involve an “employer or other covered entity (like **a staffing agency or recruiter**) taking an action motivated—in whole or in part—by an applicant’s or employee’s national origin.” The EEOC provides the following examples of possible national origin discrimination:

1. DISCRIMINATORY JOB ADVERTISEMENTS

This may include ads that an “employer prefers or requires applicants from a particular country or with a particular visa status (for example, H-1B preferred or H-1B only).”

2. DISPARATE TREATMENT

This may include an employer terminating American workers who are between assignments at a higher rate than workers with guest visas. This may also include an employer making it more difficult for applicants from one national origin to apply for positions.

3. HARASSMENT

This may include harassing an employee based on national origin by subjecting them to unwelcome remarks or conduct based on national origin.

4. RETALIATION

This may include retaliation by an employer because an individual engaged in protected activity under the statute, such as objecting to or opposing national origin discrimination at work, participating in employer or EEOC investigations, or filing an EEOC charge.

The EEOC in its technical assistance document also states that “common business reasons” do not allow an employer to “hire foreign workers over American workers,” including customer or client preference, lower cost of labor, or belief that workers from one or more national origin groups are more productive or have a better work ethic. The landing page also encourages employees to file a charge with the EEOC if they believe they have been subjected to national origin discrimination and provides a link to related guidance.

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In light of the updated guidance from the EEOC, staffing agencies should consider the following:

- Ensure that job postings and other documents do not include statements suggesting a preference for employees of any particular national origin (i.e., remove language such as “H-1B preferred or H-1B only”)
- Review training materials for human resources, recruiters, account managers, and others individuals involved in hiring, supervision, and management to ensure that the updated guidance is taken into consideration and modifications, if any, are made accordingly
- Review internal policies to ensure they prohibit discrimination on the basis of national origin
- Ensure hiring, promotion, and compensation decisions are transparent, well documented, and objective

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