

English-Only Workplace Policies

In-House News:

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By Anique Gonzalez

Immigration has undoubtedly been a hot topic in the United States recently, and it seems there are no signs of the subject becoming any less controversial in the near future. As Congress continues to struggle over immigration reform, lawsuits filed by immigrants alleging violations of the EEOC continue to rise.

The recent trend toward businesses' creation and implementation of English-only policies in the workplace has resulted in an increase of employees filing claims maintaining that the policies discriminate against them and create a hostile work environment. According to the Equal Employment Opportunity Commission (EEOC), there were 30 such suits filed in 1996; 10 years later, that number had risen to 120.

There have been instances of such suits taking place across the country, and the companies involved have not been as victorious as one might think. For example, a case currently pending in Massachusetts sets the EEOC against the Salvation Army for enforcing an English-only policy as well as requiring a specific level of English proficiency among employees. A New York suit resulted in a geriatric center being forced to pay \$900,000 after it settled with Haitian employees who maintained they were unable to speak their native tongue even though other languages were allowed. In Atlanta, three Hispanic housekeepers filed suit against a private college in response to an English-only

policy that required them to speak English to supervisors as well as colleagues. The college, Oglethorpe University, and the plaintiffs have agreed to settle.

Not all English-only policies have been struck down in court, however. One New York case was found in favor of the defendant, a taxi company based in Long Island. The federal court found that the English-only policy was not implemented for discriminatory purposes and did not create a hostile work environment but, rather, was a necessity that helped increase the ease of business functions and avoid communication problems.

There is a difference between essential and necessary English-only policies and those that can be viewed as companies' ways of purposefully discriminating against employees. For example, policies that prohibit employees from speaking their native tongues even on their own personal time (i.e., lunch breaks) are often viewed as discriminatory or conducive to a hostile work environment.

English-only policies are justified when they serve specific business purposes. (This is especially true in environments that are customer-service based.) The bottom line is that businesses must be aware that such policies are precarious and fully understand the legal implications associated with them.

According to the EEOC, "Even where an English-only rule has been adopted for nondiscriminatory reasons, the employer's use of the rule should relate to specific circumstances in its workplace. An English-only rule is justified by 'business necessity' if it is needed for an employer to operate safely or efficiently. 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."

On the Net

U.S. Equal Employment Opportunity Commission

www.eeoc.com

Salvation Army

www.salvationarmyusa.org

Oglethorpe University

www.oglethorpe.edu