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Prevention corner

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South Carolina Human Affairs Commission

Technical Services and Training Division



Prevention Corner



An ounce of Prevention is Worth a Pound of Cure.

~Benjamin Franklin

AUGUST 2021

South Carolina
Human Affairs Commission
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The South Carolina Human Affairs Commission strives to alleviate problems of discrimination through the enforcement of the SC Human Affairs Law (including the SC Pregnancy Accommodations Act), the SC Fair Housing Law, the SC Equal Enjoyment and Privileges to Public Accommodations Law and the SC Lactation Support Act.

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NATIONAL ORIGIN DISCRIMINATION

National origin discrimination involves treating people (applicants or employees) unfavorably because they are from a particular country or part of the world, because of ethnicity or accent, or because they appear to be of a certain ethnic background (even if they are not).

National origin discrimination also can involve treating people unfavorably because they are married to (or associated with) a person of a certain national origin or because of their connection with an ethnic organization or group.

National Origin Harassment in the Workplace

- National origin harassment involves unwelcome and offensive conduct in the workplace that is based on an individual's ethnicity or place of origin.
- The harasser can be your supervisor, a supervisor in another area, a co-worker, or someone who does not work for your employer, such as a vendor, client, or customer.
- National origin harassment can include ethnic slurs, jokes, offensive or derogatory comments, or other verbal or physical conduct based on an individual's national origin.

Resources: U.S Equal Employment Opportunity Commission; S.C. Human Affairs Commission

**If you feel like you have experienced discrimination,
contact us for help.**

(800) 521-0725, Relay 711

How can I schedule training?

Contact us at:

(803) 737-7800 or (800) 521-0725, Relay 711

email: training@schac.sc.gov



National Origin: Potential Discriminatory Practices

EMPLOYMENT

- A transit worker's supervisor makes frequent racial epithets against the worker because his family is from Iran. Last week, the boss put up a fake sign on the bulletin board telling everyone not to trust the worker because he is a terrorist.
- A woman who emigrated from Russia applies for a job as an accountant. The employer turns her down because she speaks with an accent even though she is able to perform the job requirements.

These examples may be violations of the law that prohibits discrimination against an employee or job applicant because of his or her national origin. This means an employer cannot discipline, harass, fire, refuse to hire or promote a person because of his or her national origin.

Employment: Title VII of the Civil Rights Act of 1964 prohibits employers with 15 or more employees from refusing to hire, firing, or otherwise discriminating against an individual because of race, color, religion, sex, or national origin.

HOUSING

- A Native Hawaiian family is looking for an apartment. They are told by the rental agent that no apartments are available, even though apartments are available and are shown to other applicants.
- A realtor shows a Latino family houses located only in predominantly Latino neighborhoods and refuses to show the family houses in other neighborhoods.

These examples may be violations of the federal Fair Housing Act.

Housing: The Fair Housing Act prohibits discrimination in the sale, rental, and financing of housing based on race, color, religion, sex, national origin, disability, and familial status (pregnancy or having a child under 18).



Limited English Proficiency (LEP)

Limited English Proficiency (LEP)

Courts have interpreted Title VI's prohibition of discrimination on the basis of national origin to include discrimination based on English proficiency.

Under Title VI (and the Safe Streets Act), recipients are required to provide LEP individuals with meaningful access to their programs and services.

Providing "meaningful access" will generally involve some combination of services for oral interpretation and written translation of vital documents.

Title VI of the Civil Rights Act of 1964 protects people from discrimination based on race, color, and national origin in programs and activities receiving federal financial assistance.

Resource: <https://www.ojp.gov/program/civil-rights/limited-english-proficient-lep>



- Employers may have legitimate business reasons for making language-based employment decisions. It is important, however, to ensure that these decisions do not violate federal laws.
- An employer may not base an employment decision on an **accent** *unless* the ability to communicate in spoken English is required to perform job duties effectively and the individual's accent *materially interferes* with that job performance.
- A language **fluency** requirement is lawful *if* fluency is required for the *effective performance* of the position for which it is imposed.
- A **language-restrictive policy** may violate federal laws if it is applied *at all times* in the workplace, but such a policy may be lawful *in limited circumstances* when needed to promote safe and efficient job performance or safe and efficient business operations. Of course, it should not be adopted for discriminatory reasons or applied in a discriminatory way.



Answers to your questions about Pregnancy Discrimination and Lactation Support in the workplace.

Are there any cases of national origin and pregnancy discrimination?

Yes. There was a case of a Samoan Counselor that was terminated weeks after giving birth.

Press Release 08-27-2010

Bayview Nonprofit Sued for National Origin and Pregnancy Discrimination

Samoan Counselor Terminated Weeks After Giving Birth

SAN FRANCISCO — A Bayview Hunters Point nonprofit violated federal law when it failed to promote and instead terminated an employee because of her Samoan national origin and her pregnancy, the U.S. Equal Employment Opportunity Commission (EEOC) charged in a lawsuit filed.

The employee, who is Samoan, was hired by the United Council of Human Services (UCHS) in May 2002 as a Peer Advisor. She worked the graveyard shift counseling walk-in clients at its 24-hour Drop-In Center. In 2007, just days prior to beginning maternity leave, she learned that a co-worker had been promoted to Supervisory Peer Advisor.

According to the EEOC's investigation, the new supervisor, who is male and not Samoan, had fewer qualifications and less experience than the employee, who had a record of five years of excellent service. The employee started her maternity leave on April 27, 2007, one day before her baby was born, and attempted to return to work on June 4. She was turned away and later informed that her job was eliminated due to funding cuts. However, EEOC found that UCHS had hired a male, also not Samoan, to replace the employee on the Peer Advisor graveyard shift during her maternity leave, who continued to work there after she was terminated.

Title VII of the Civil Rights Act of 1964 prohibits employers from discriminating against employees on the bases of national origin and gender. According to the Pregnancy Discrimination Act, sex discrimination includes discrimination on the basis of pregnancy, childbirth, or any related medical conditions affected by pregnancy.

The EEOC filed this lawsuit (CV 10-3826-BZ in U.S. District Court for the District of Northern District of California) only after first attempting to reach a voluntary settlement through conciliation.

"Our investigation found that the employee faced comments such as **'Every time I see you, you are pregnant,'**" stated EEOC San Francisco District Director. "Stigmatizing pregnant women of a particular ethnicity or race compounds the barriers to a level playing field. **Employment decisions must be based on merit and ability, not stereotypes and bias.**" It is illegal to promote or fire workers based on pregnancy or national origin. Resource: U.S Equal Employment Opportunity Commission

PREVENTION CORNER

How can employers avoid discriminating based on national origin when recruiting and hiring?

- 1. Use diverse recruitment sources.** Employers should attempt to recruit from diverse sources to attract a diverse applicant pool. Recruitment practices aimed at increasing overall diversity will not violate Title VII as long as they do not exclude any national origin group.
- 2. Treat workers consistently.** Employers should treat workers and applicants consistently in recruiting and hiring, without regard to their actual or perceived national origin.
- 3. Employment policies.** Develop employment policies and practices that refrain from discriminating based on national origin.
- 4. Employers and employment agencies must not discriminate during the referral process.** Title VII prohibits employment agencies from referring only applicants and/or employees who are of a particular national origin group. Similarly, employment agencies may not comply with discriminatory recruitment or referral requests from employers.

Resources: S.C. Human Affairs Commission; U.S Equal Employment Opportunity Commission

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**The mission of the South Carolina Human Affairs Commission is to
Prevent and Eliminate Unlawful Discrimination in Employment,
Housing, and Public Accommodations.**