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Mandating “English Only” In A Diverse Workplace

The population in the United States is becoming increasingly diverse. For example, one in every seven people in the United States is Latino or Hispanic. Across North Carolina, the Hispanic population grew almost 400 percent between 1990 and 2000. Further, according to the U.S. Census Bureau, this population is significantly younger than the general population, meaning that Hispanic employees are a growing part of the workforce.

Studies also suggest that some individuals are “uncomfortable” with the influx of Spanish-speaking employees, and ethnic tensions remain real in some workplaces. The adoption of “English Only” rules has brought this tension to the courtroom in the form of race and national origin discrimination claims.

Even if applied to everyone consistently, the EEOC’s position is that “English Only” rules adversely impact members of protected classes, and that it is up to the employer to prove that the rule is “job related” and “consistent with business necessity.” This position has been embraced by some courts and rejected by others. Some general observations:

- The less apparent the justification for an “English Only” rule, the greater the risk of a discrimination claim.
- Requiring employees to speak only English at work may be acceptable in some factual circumstances; however, a complete ban on the use of languages other than English at work will likely be attacked as too broad to be enforceable.
- The fact that English-speaking coworkers may feel “uncomfortable” when another language is spoken in their presence, without more, is not a legitimate basis for imposing an “English Only” rule. Of course, if an employee or group of employees is using another language for the purpose of harassing a coworker or being insubordinate to a supervisor, disciplinary action is appropriate.
- Safety issues may be the reason to use a common language in some circumstances. For example, one machine operator may be required to speak English to another machine operator on the production floor.
- Courts may find particularly suspect rules that require employees to speak only English during non-working times such as lunch hours, breaks, and during personal phone conversations.

An employer considering implementation of an “English Only” rule should prepare a written record of communication problems, safety problems, or operations issues that could result or have resulted from the use of languages other than English on the job. Further, any such rule should be limited in scope to restrictions that are necessary to accomplish the Employer’s business needs.

TIP



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