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Say What? The Legality of English-Only Policies in the Workplace

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Can employers require their employees to speak only in English? The answer is sometimes, but employers need to exercise caution when instituting such policies.

The Equal Employment Opportunity Commission distinguishes between two types of English-only policies: (1) policies that are applied at all times (i.e. requiring employees to speak English in the workplace at all times--including breaks and lunch time) and (2) policies applied only at certain times.

The first type--policies that apply at all times-- is presumed to violate Title VII and will be highly scrutinized. As such, they are rarely if ever justified and employers should avoid them.

The second type, where the policy is applied only at certain times, can be acceptable, but the policy should be job-related and consistent with business necessity. An employer can satisfy this standard by providing detailed, specific evidence demonstrating that the business purpose of requiring employees to speak English is sufficiently necessary for employees to safely and efficiently perform their jobs, and that the policy is specifically tailored to minimize any discriminatory impact based on national origin. The circumstances where an English-only policy may be justified include: communications with customer or coworkers who can only speak English; emergencies or other situations in which workers must speak a common language to promote safety; and cooperative work assignments in which the English-only rule is needed to promote efficiency. Employers should take note that business convenience alone does not justify an English-only policy.

A [fashion chain was recently accused of allegedly having an illegal, English-only work policy](#). Apparently, employees were to speak only English with customers (even those who spoke only Spanish), among themselves, and during rest breaks. This type of restriction is likely unnecessary to run the business of selling clothes properly and when employees complained, they were purportedly retaliated against by a reduction in work hours and manager hostility.

Employers should also note that they cannot take disciplinary action against an employee for violating an English-only policy unless the employer has notified workers about the policy and the consequences of violating it.

Ultimately, employers should proceed with caution when instituting an English-only policy and ensure that the policy is limited to specific circumstances and justified by business necessity.

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