

Home Field Advantage: EEOC To Prioritize American Workers

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On February 19, 2025, United States Equal Employment Opportunity Commission (EEOC) Acting Chair Andrea Lucas announced that the agency will direct its focus on protecting American workers from unlawful national origin discrimination (the “February 2025 EEOC Guidance”). In a shift from previous priorities usually relating to the prevention of discrimination against foreign nationals and historically marginalized groups, the EEOC’s new enforcement priority will likely lead to an increase in investigations, compliance checks, and litigation relative to the protection of American workers from alleged discrimination.

Applying to employers with 15 or more employees, Title VII of the Civil Rights Act of 1964 is a federal law that prohibits employment discrimination based on race, color, religion, sex (including pregnancy, sexual orientation, and gender identity), and national origin. National origin discrimination occurs when an applicant or employee is treated unfairly due to their country of origin, ethnicity, accent, or because they are perceived to belong to a particular ethnic group, regardless of whether they actually do. In conjunction with its enforcement of Title VII and other federal laws against workplace discrimination and harassment, the EEOC periodically releases guidance to assist employers with compliance.

Traditionally, and under previous administrations, the EEOC focused its national origin enforcement efforts on protecting foreign nationals from employment bias. However, the Trump administration has made its intention to focus on protecting American citizens from what it characterizes as anti-American bias clear. In the press release, Acting Chair Lucas highlighted that this policy shift “will help deter illegal migration and reduce the abuse of legal immigration programs by increasing enforcement of employment antidiscrimination laws against employers that illegally prefer non-American workers, as well as against staffing agencies and other agents that unlawfully comply with client companies’ illegal preferences against American workers.” Further, Acting Chair Lucas opined that the agency will be paying particular attention to employer’s policies and practices which appear to show preference to undocumented individuals, migrant workers, and visa holders over American workers.

The agency’s shift in focus is already making an impact. In a recent settlement, LeoPalace Guam Corporation, operating as LeoPalace Resort in Guam, agreed to pay \$1,412,500.00 to resolve a case brought by the EEOC in which it alleged that the resort favored Japanese employees over non-Japanese employees, including American nationals. Specifically, the suit claimed that the resort paid non-Japanese employees less wages, gave them less benefits, and subjected them to worse terms and conditions of employment in comparison to Japanese employees in similar or lower positions. See *EEOC v. LeoPalace Guam Corp. d/b/a LeoPalace Resort*, Case No. 1:25-cv-00004 (D. Guam 2025). In addition to the settlement payment, the resort also agreed to equitable relief including hiring an external equal employment opportunity monitor to oversee compliance, training, and review of policies and procedures and conducting periodic audits.

Businesses and corporate entities who sponsor foreign workers via work visas or those that typically hire immigrants and/or foreign nationals are likely to be particularly affected by the February 2025 EEOC Guidance. Practical strategies to consider in light of the February 2025 EEOC Guidance include:

- Conducting an internal audit of all recruitment, hiring, benefits, compensation and promotion policies to ensure they address national original hiring, employment, work conditions, benefits and compensation in a neutral manner;
- Ensure all current and future job postings and hiring selection criteria are neutral as to national origin;

- Provide training to management and human resources staff on the requirements of Title VII including its prohibition against national origin discrimination and the February 2025 EEOC Guidance;
- Ensure that any third-party staffing agencies and/or recruiters being utilized are aware of Title VII's prohibition against national origin discrimination and are aware of the February 2025 EEOC Guidance;
- Confirm that any visa programs, including H-1B programs, are not being utilized to displace American workers; and
- Ensure that pay and working conditions for similarly situated foreign workers and American workers are generally consistent.

Businesses and corporate entities that employ and/or recruit foreign workers should be particularly vigilant in monitoring future EEOC guidance, lawsuits, and other developments based on national origin discrimination in the coming months.

If you have questions about unlawful national origin discrimination or the February 2025 EEOC Guidance please contact Erin Lucas Hamilton at 412-394-6978 or ehamilton@babstcalland.com or Francesca C. Iovino at 412-394-6460 or fiiovino@babstcalland.com.

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