

# United States Equal Employment Opportunity Commission



## **NATIONAL ORIGIN DISCRIMINATION**

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EEOC Los Angeles District

- EEOC is an independent regulatory commission
- Enforces federal anti-discrimination laws (employment only)
- Headquartered in Washington, D.C.
- Divided into 15 Districts, with 53 field offices

\*Los Angeles District includes Southern & Central California, Southern Nevada, Hawaii, & U.S. territories of American Samoa, Guam, N. Mariana Islands and Wake Island)





## Laws Enforced by EEOC

- Title VII of the Civil Rights Act of 1964 (Title VII)
- Equal Pay Act of 1963 (EPA)
- Age Discrimination in Employment Act of 1967
- Rehabilitation Act of 1973
- Title I of the Civil Rights Act of 1991
- Americans with Disabilities Act of 1990 (ADA)
- ADA Amendments Act of 2008
- Genetic Information Non-Discrimination Act of 2008 (GINA)

## Title VII of the Civil Rights Act of 1964 (Title VII)

- Prohibits employment discrimination based on race, color, religion, sex or **national origin**.



race



color



religion

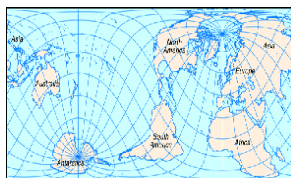


national origin



sex

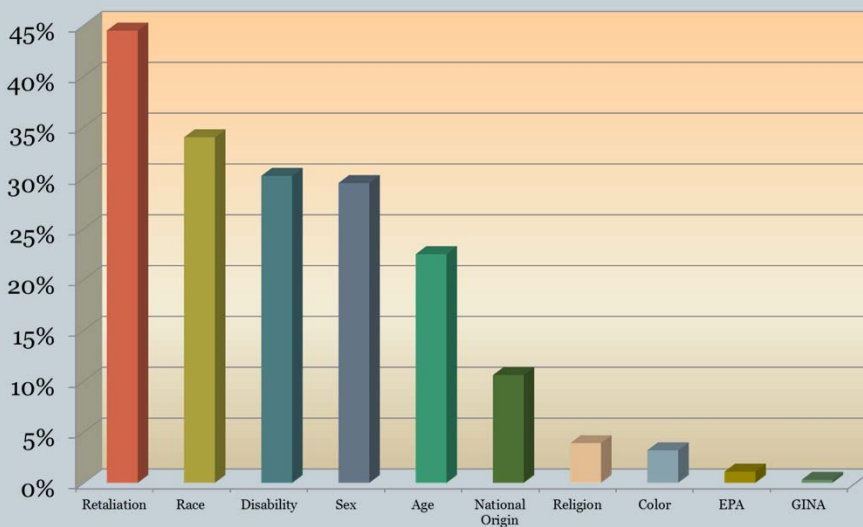
## What is NATIONAL ORIGIN?

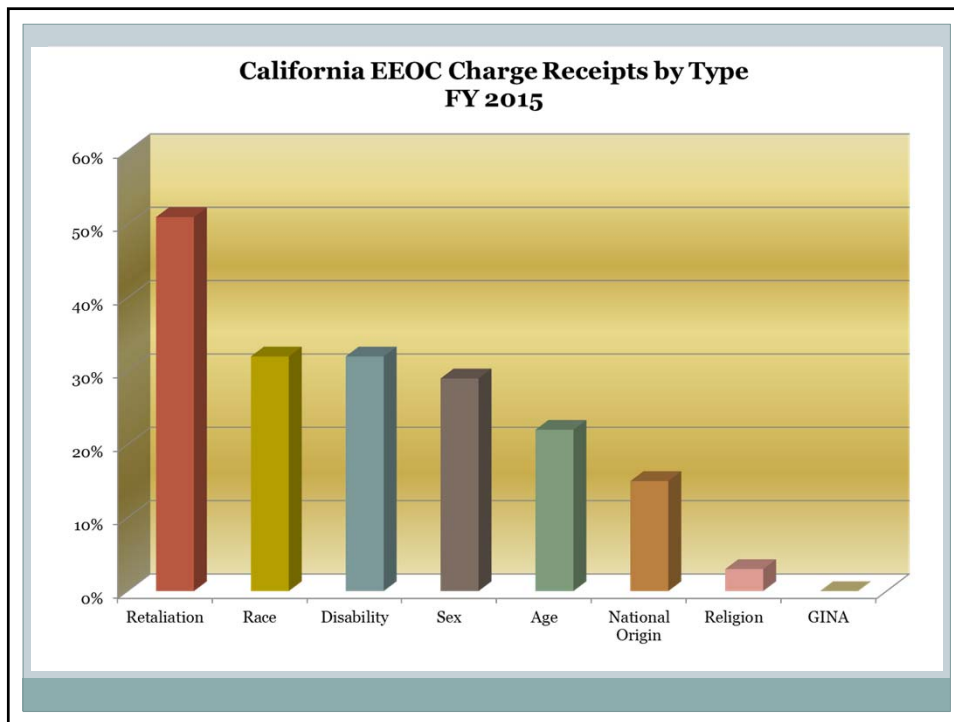


national origin

- Your country of origin (whether by birth or ancestry)
- A part of the world from which you come from, i.e., being Middle Eastern or Hispanic
- NOT to be mistaken with broad racial categories (White, Black, Asian, Native American)
- Hispanic is NOT a race, but is a national origin

**National EEOC Charge Receipts by Type  
FY 2015**





## U.S. Population in 2050

➤ **Summary:**

- U.S. population projected to be **54% minority**
- Non-Latino **Whites** to drop to 46% of total population
- **Details for the period 2008-2050:**
  - **Hispanic** population projected to **increase dramatically**
    - Nearly 1 in 3 U.S. residents would be Hispanic (currently 17% of population)
    - Blacks – increase from 14% to 15% of total pop.
    - Asians – increase from 5.1% to 9.2% of total pop.
    - American Indians & Alaska Natives increase from 1.6% to 2% of total population

Source: U.S. Census Bureau,

## POTENTIAL BARRIERS

- **Great Differences Among National Origin Groups**
  - Language
  - Culture, Religion
  - The Family Factor
  - Issues between people from particular countries
  - Legal Status

## What is National Origin Discrimination

- **National origin discrimination involves treating people unfavorably, or denying equal employment opportunities, because:**
  - They are from a particular country or part of the world
  - An individual has the physical, cultural, or language characteristics of a national origin group
  - Of an association with persons of a national origin group
- National origin discrimination in the workplace is illegal, and can manifest as disparate treatment, disparate impact and harassment.

## Potential EEO Issues

- Any and all issues may affect people from different countries: discrimination based on race, color, national origin, religion, sex, disability, age and genetic information
- **Harassment**
- **Accent Discrimination**
- **Language Policies**
- **Severe Abuses:**
  - **Sexual Abuse**
  - **Human Trafficking**

## DISPARATE TREATMENT

- Employers prohibited from disparate treatment (treating one group less favorably) based on a protected basis
- Disparate treatment is a violation whether motivated by ***bias against or preference toward*** an applicant or employee due to their protected group

## Scenario

- John, a Latino truck driver, reports that White drivers are given shorter and easier driving run assignments. He also says that non-White drivers are required to report fewer hours worked despite having long driving runs than White drivers.
- **What EEO issues do you see in this scenario?**
- **What steps should the company take given the situation?**
- **What factors need to be explored further, in any?**

## Scenario (Continued)

- John tells his supervisor about the discrimination in assignments and time reporting. John also reports that he is the subject of racial comments. His supervisor tells him that his services are no longer needed.
- **What conclusions do these new facts lead you to?**
- **Is there illegal discrimination? Why or why not?**
- **What steps should be taken given these facts?**

## Scenario Conclusion

- This was a real-life case. The EEOC found that Scully Distribution Services in California subjected a class of non-White employees to disparate treatment and harassment due to their race and national origin, and that those who reported it were subject to illegal retaliation.
- The EEOC settled its race discrimination lawsuit against Scully for \$630,000. Over 50 Black, East Indian, and Latino truck drivers were affected.
- The company was ordered to hire an EEO monitor, implement a policy and complaint procedure to address discrimination, harassment and retaliation, and conduct annual anti-discrimination training.

## DISPARATE IMPACT

Title VII also prohibits employers from using neutral tests or selection procedures that have the **effect** of disproportionately excluding persons based on race, color, religion, sex, or national origin, where the tests or selection procedures are not “job-related and consistent with business necessity.”

This is called “**disparate impact**” discrimination. (i.e., English tests)





## EEOC Systemic Initiative

The EEOC launched its Systemic Initiative to prevent discrimination by taking a careful look at the practices employers use to recruit, hire, promote, train and retain employees.



## Emerging Issue: IMMIGRATION

- Low-wage earners, such as farm workers, susceptible to severe sexual abuse
- Hostility toward immigrants as a result of a poor economy & higher unemployment rates



## 2010: EEOC v. ABM Industries

Central Valley, California



- \$5.8 million settlement for 21 Hispanic female janitorial workers who were subjected to severe sexual harassment

## Harassment is...



- Any *unwelcome* verbal, visual or physical conduct.

## Examples of **National Origin Harassment**

- References to Middle Easterners as terrorists, repeatedly calling an Iraqi employee “Osama”
- Emailing co-workers derogatory cartoons about Mexicans
- Hanging a noose at work
- Making fun of one’s Chinese accent
- Making repeated jokes about how Hispanic women have lots of children, should stay in the home
- Constant yelling and intimidating behavior toward an employee that has complained of illegal discrimination
- Physical beatings of employees from different countries
- Human trafficking

### EEOC v. Delano Regional Medical Center 9/2012 EEOC Press Conference



Key partner:  
**Asian Pacific  
American Legal  
Center (APALC),  
now known as Asian  
Americans  
Advancing Justice**

- Filipino workers harassed, treated differently due to a language policy enforced against Filipinos only.
- Case resolved for \$975,000; 3-year consent decree, new policies & procedures, hiring of independent EEO monitor.



## COMMISSION FOCUS

### January 19, 2011: Commission meets on **HUMAN TRAFFICKING AND FORCED LABOR**



## EEOC v. Global Horizons et al



*6/2014 EEOC Press Conference*

**2011:** EEOC announces suit against the L.A. farm labor contractor & 8 farms in WA & HI for discrimination against >500 Thai farm workers

**2013:** Del Monte Farm Fresh settles for \$1.2 million

**2014:** 4 HI farms settle for \$2.4 million; HI Judge orders Global Horizons & Maui Pineapple to pay \$12.3 million to victims.

**2016:** WA Judge orders Global Horizons to pay \$7.7 million



*Strategic Enforcement Plan Priority:*  
**Protecting Immigrant, Migrant & Other  
 Vulnerable Workers (IMOVW)**

“The EEOC will target disparate pay, job segregation, harassment, trafficking and other discriminatory practices and policies affecting immigrant, migrant and other vulnerable workers, who are often unaware of their rights under the equal employment laws, or reluctant or unable to exercise them.”

- IMOVW Work Group
- Immigration Work Group
- Human Trafficking Work Group & Task Forces

## A note on **RETALIATION**

- Illegal to fire, demote, harass, or otherwise “retaliate” because an employee/applicant filed a charge, complained to their employer about discrimination, or participated in an employment discrimination proceeding (such as an investigation or lawsuit).



**\*Pertains to all statutes**



## Potential Victims: *Questions to Consider*

- Size of the employer (**15 or more** for most EEOC statutes, 20 for age, 1 for equal pay; 5 at DFEH)
- Date of last discriminatory act (must file with EEOC within 300 days of this date)
- If has a disability, is the person qualified & able to do the essential functions of the job with or without accommodation?
- Who/What/When/Where/How – Dates, names, details for accommodation requests, incidents of harassment, rejection for jobs, discipline/discharge reasons, etc.



## Potential Victims: *Questions to Consider*

- Do you have documentation? Keep copies including policies, complaints, paystubs, evaluations, disciplinary notices, requests for accommodation & responses, voicemails, emails, texts, photos, etc.
- Names & contact information of players, discriminating officials, witnesses & other potential victims ***only if available***.
- Willing to file an EEOC charge? If so, refer as soon as possible. Community-based organizations may also file third party charges on behalf of others.  
***Undocumented workers are also protected.***

***Questions?***

## **Contact Information & Resources**

**U.S. Equal Employment Opportunity Commission**



**Toll-free: 1-800-669-4000**

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**Training/Questions?**

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