

NATIONAL ORIGIN EMPLOYMENT DISCRIMINATION IN FLORIDA

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Richard Celler



Discrimination in the workplace based on national origin was once rampant in the United States. Along with viewing those from other countries as “different”, which has always led to discrimination, the workplace also offered another reason to discriminate – simple economics. As far back as the turn of the 20th century immigrants flooding into the United States who were willing to do the same job for less were perceived as a threat to American workers and were, therefore, discriminated against in the workplace. Over 100 years later national origin discrimination continues to exist for many of the same reasons; however, it is now illegal according to both United States federal law and the law of the State of Florida.

WHAT IS EMPLOYMENT DISCRIMINATION?

Contrary to what many people believe it is not always illegal to discriminate in the



United States. It is, however, illegal to discriminate in areas such as housing, education, and employment when that discrimination is based on certain protected classes or characteristics. For example, an employer could decide to not hire people who have brown hair. Although this is

discriminatory, there is no federal or state law that protects discrimination based on hair color. At the federal level, however, Title VII of the Civil Rights Act of 1964 does prohibit discrimination in the workplace based on race, color, religion, national origin, or sex.

The state law counterpart to Title VII, known as the “Florida Civil Rights Act” (FCRA), also prohibits employment discrimination based on color, religion, gender, national origin, age, handicap, or marital status. You will notice that the State of Florida actually protects *more* classes/characteristics than Title VII does. Discriminatory practices may apply to all aspects of employment, including hiring, firing, pay, job assignments, promotions, layoff, training, fringe benefits, and any other term or condition of employment.

COMMON EXAMPLES OF NATIONAL ORIGIN DISCRIMINATION IN THE WORKPLACE



According to the Equal Opportunity Employment Commission, or EEOC, national origin employment discrimination involves “treating people 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.” National origin discrimination also includes treating an employee unfavorably because of the employee’s relationship or affiliation with a person or group from a certain national origin. Discriminatory practices based on national origin can take many forms.

Some common scenarios that involve nation origin discrimination include:

- Turning down a qualified applicant for a job because he/she has an accent.
- Requiring only job applicants who appear or sound foreign to show proof of work authorization before they can complete a job application.
- Forbidding workers from speaking a language other than English at work unless an “English only” rule is necessary for the safe or efficient operation of the business. For example, not allowing workers to speak Spanish on their lunch breaks.
- An employer requiring certain applicants to provide additional documentation to establish work authorization or citizenship beyond that which is required by law.
- Allowing other workers, supervisors, or even customers, to use ethnic slurs or make “jokes” about a worker’s ethnicity or country of origin.

Demoting, or passing over for promotion, an employee because she is married to someone from the Middle East.

HARASSMENT BASED ON NATIONAL ORIGIN

Both federal and state law prohibit outright discrimination in the workplace based on national origin. In addition, *harassment* in the workplace based on national origin is also illegal. This may include offensive or derogatory remarks about a person’s national origin, accent, or ethnicity. “Harassment” is typically something that occurs over a period of time in the workplace. As a general rule, a single act does not rise to the level of “harassment”.

Instead, harassment occurs when the conduct is:

- So frequent or severe that it creates a hostile or offensive work environment OR

Results in an adverse employment decision, such as the victim being fired, demoted, or passed over for hiring consideration.

LEGAL OPTIONS FOR A VICTIM

If you believe you are the victim of national origin discrimination in the workplace you should consult with an experienced Florida employment attorney right away. You may have the basis for a lawsuit. If successful, you could be awarded both compensatory and punitive damages if the national origin discrimination was intentional.

Moreover, your employer may be held liable for harassment based on national origin if other workers, supervisors, or even non-employees engaged in harassing conduct.

Your employer is automatically held liable for harassment by a supervisor if that conduct led to a negative employment action such as you not being hired, being



overlooked for a promotion, or being terminated. In that case, the only way your employer can avoid liability is if your employer is able to prove that:

1. Your employer reasonably tried to prevent and promptly correct the harassing behavior AND
2. You unreasonably failed to take advantage of any preventive or corrective opportunities provided by the employer.

Your employer may also be held responsible for harassment by non-supervisory co-workers as well as by anyone else allowed on the premises if your employer “knew, or should have known about the harassment and failed to take prompt and appropriate corrective action.”



Both federal and state law prohibit discrimination based on national origin in the workplace. Moreover, those laws are painted with a wide brush, meaning they cover numerous situations and call for an employer to be vigilant about preventing discriminatory conduct in the workplace. Despite these laws, national origin employment discrimination does continue to occur. If you believe you have been the victim of national origin discrimination contact an experienced Florida employment attorney right away.

EEOC, [Facts about National Origin Discrimination](#)

United States Department of Justice, [Federal Protections against National Origin Discrimination](#)

Florida Statutes, [Florida Civil Rights Act](#)

EEOC, [National Origin Discrimination](#)

About the Author



Richard Celler

Richard Celler is the Managing Partner of Richard Celler Legal, P.A., a/k/a the Florida Overtime Lawyer. He created this firm after having served as the Founding Member and Managing Partner of one of the largest employee/plaintiff side employment law divisions in the United States.

In November 2013, Mr. Celler left big firm life with the idea of reopening his own litigation firm with an emphasis on something most big firms cannot provide – a lower volume of cases, and more focus on the needs and attention of every single client.

Mr. Celler's practice focuses on all areas of the employment context from discrimination, harassment, and retaliation under the Florida Civil Rights Act, Title VII, the Family Medical Leave Act, and other employment related statutes. Additionally, Mr. Celler represents individuals in whistleblower and wage and hour litigation (overtime, minimum wage, commissions, final paychecks).

Many firms charge clients for an initial consultation to discuss their claims. Mr. Celler does not. You can call him or email him to discuss your case for free. If he elects to represent you, your case will be handled on a contingency basis, which means that he only gets paid, if you get paid. We encourage you to look at the remainder of our website for information on your rights and benefits in the workplace – www.floridaovertimelawyer.com.

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