What do I need to know about…English-Only Rules?

The Department of Labor benefits from the substantial contributions of employees who are fluent in languages other than English.

For example, the Occupational Safety and Health Administration (OSHA) safeguards the rights of workers to safe and healthy working conditions by setting and enforcing standards, and by providing training, outreach, education and assistance. Fluent in a variety of languages, OSHA's multilingual staff ensures that programs and services are effectively communicated to all workers and employers. The Wage and Hour Division (WHD) enforces federal labor laws, including laws concerning the minimum wage, overtime pay, child labor, and migrant workers. WHD strategic initiatives focus on industries that employ vulnerable workers, including those with limited English proficiency. In order to meet the needs of these individuals, over 60 percent of WHD's investigators are multilingual, providing support for nearly 50 different languages.

As an employer that promotes the benefits of a diverse workforce, DOL recognizes that employees who speak languages other than English may wish to communicate in another language outside of performing their job duties, such as in casual conversations with coworkers or while engaged in personal matters.

In most circumstances, employees' communications in languages other than English should not be limited to only those official functions for which they were hired. Employees' right to speak in languages other than English may only be curtailed in certain narrowly-defined situations.

EEOC Regulation 29 C.F.R. § 1606.7(a) provides that a rule requiring employees to speak only English *at all times* in the workplace is a burdensome term and condition of employment. Such a rule is presumed to violate Title VII of the Civil Rights Act of 1964. Therefore, a speak-English-only rule that applies to casual conversations between employees on break or not performing a job duty would be unlawful.

A workplace English-only rule that is applied only at certain times may be adopted under very limited circumstances that are justified by business necessity, as stated in 29 C.F.R. § 1606.7(b). Such a rule must be narrowly tailored to address the business necessity. Situations in which business necessity would justify an English-only rule include:

- For communications with customers, coworkers, or supervisors who only speak English
- In emergencies or other situations in which employees must speak a common language to promote safety

    - For example: A rule requiring employees to speak only English both when performing their work in specific areas of the workplace that might contain flammable chemicals or other potentially dangerous equipment and in the event of an emergency does not violate Title VII because it is narrowly tailored to cover necessary safety requirements.
- For cooperative work assignments in which the English-only rule is needed to promote efficiency
    - For example: A rule requiring investigators (some of whom speak only English) to speak only English when working as a team to compile a report or prepare a case for litigation does not violate Title VII because it is narrowly tailored to promote business efficiency.
- To enable a supervisor who only speaks English to monitor the performance of an employee whose job duties require communication in English with coworkers or customers
    - For example: A rule requiring employees to speak only English with English-speaking co-workers and customers when a supervisor is present to monitor their work performance would be narrowly tailored to promote efficiency of business operations. As long as the rule does not apply to casual conversations between employees when they are not performing job duties, it would not violate Title VII.

NOTICE

If an employer with a business necessity adopts an English-only rule to be applied at certain times, the employer must inform its affected employees of the general circumstances when speaking only in English is required and of the consequences of violating the rule, as detailed in 29 C.F.R. § 1606.7(c).

As with all workplace policies, an English-only rule must be adopted for *nondiscriminatory* reasons only.

- For example: An English-only rule would be unlawful if it were adopted with the intent to discriminate on the basis of national origin. Likewise, a policy prohibiting some, but not all, of the foreign languages spoken in a workplace, such as a no-Spanish rule, would be unlawful.

BEST PRACTICES

- *Evaluate*: In evaluating whether to adopt an English-only rule, an employer should weigh the business justifications for the rule against any possible discriminatory effects.

- *Consider Alternatives*: Before adopting an English-only rule, the employer should consider whether there are any alternatives that would be equally effective in promoting safety or efficiency.
- *Consult with the Workplace Equality Compliance Officer (WECO)*: To ensure that the employer is proceeding properly, it is best to consult with the Agency's WECO or the Civil Rights Center before implementing an English-only rule.