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“Speak English Only” Workplace Rules: Proceed With Caution

Lawyers Alliance is committed to helping its clients maintain productive and discrimination-free workplaces. Many nonprofit organizations rely on multilingual workers, and they should be careful regarding “speak English only” policies. If English-only rules are judged to be too demanding or discriminatory, there can be severe consequences for employers, such as a recent \$800,000 settlement paid by a New York City hotel following the Equal Employment Opportunity Commission’s investigation of the hotel’s English-only policy¹.

Regulatory Background: The EEOC’s regulations² about “speak-English-only” rules in the workplace presume such rules are improper and discriminatory. According to the EEOC, prohibiting employees from speaking their primary language can create a negative work environment, and can cause affected employees to feel isolated and intimidated. The EEOC acknowledges that not all English-only rules are automatically discriminatory. English-only rules can be justified if they are necessary for the organization. The regulations also provide that employers must properly notify employees of English-only rules. If proper notice is not given, this can be used against employers as evidence of discrimination.³

Practice Guidelines: Organizations should exercise caution when implementing English-only policies. Organizations should always avoid policies forbidding the speaking of non-English languages at all times. If absolutely required, English-only rules should apply only to specific times and business situations, such as when an employee must interact with a customer or client. Employees should always be free to speak the language of their choice on breaks and in recreational areas.⁴

If an organization decides to implement an English-only rule, it should always be able to justify it by showing its business necessity. According to EEOC guidelines, business necessity would justify implementing an English-only rule under the following circumstances: (1) to enable supervisors who speak only English to properly monitor job performance; (2) to promote safety in emergency situations; (3) to promote efficiency when multi-lingual speakers collaborate on work projects with English-only speakers; and (4) to promote customer relations when speaking with English-speaking

¹ *EEOC v. Melrose Hotel Co., Inc., et. al.*, No. 04-CV-7514 (AKH), (S.D.N.Y. March 24, 2006); see also EEOC Settlement Report, March 2006, <http://www.eeoc.gov/litigation/settlements/settlement03-06.html>, accessed July 30, 2007.

² 29 CFR § 1606.7

³ EEOC Compliance Manual Section 13: National Origin Discrimination, <<http://www.eeoc.gov/policy/docs/national-origin.html#VC>>, accessed July 30, 2007.

⁴ *Id.*

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customers.⁵ An organization may try to justify an English-only rule by saying it would reduce disharmony in the workplace. However, the EEOC does not recognize “disharmony” justifications. A more tangible justification, such as the four listed above, is needed.⁶

Finally, organizations should remember to give all employees proper notice when enacting an English-only rule, and should make clear the consequences for violating it. Giving proper notice not only promotes open communication between the organization and its employees, but also serves as evidence that the organization has non-discriminatory and non-punitive reasons for implementing the English-only rule.⁷

This alert is meant to provide general information only, not legal advice. For more about English-only rules, see <http://www.eeoc.gov/policy/docs/national-origin.html> - VC. Please contact Maria Cilenti at Lawyers Alliance for New York at (212) 219-1800 x 222 or visit our website www.lawyersalliance.org for further information.

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⁵ EEOC Compliance Manual Section 13: National Origin Discrimination, <<http://www.eeoc.gov/policy/docs/national-origin.html#VC>>, accessed July 30, 2007.

⁶ *Id.*

⁷ *Id.*