Via Overnight Delivery

March 1, 2013

Hon. Jacqueline Berrien, Chair
United States Equal Employment Opportunity Commission
131 M Street, N.E.
Washington, D.C. 20507

Re: *National Origin Discrimination – Advocate Recommendations*

Dear Chair Berrien:

We are a coalition of civil rights organizations that advocate on behalf of immigrant workers and others discriminated against due to their national origin. We would like to commend the Commission for adopting a Strategic Enforcement Plan ("SEP") that recognizes the importance of protecting immigrant, migrant, and other vulnerable workers from harassment, human trafficking and other discriminatory practices. Considering comprehensive immigration reform is on the forefront of national discussion, we believe the time is ripe for strengthening measures against national origin discrimination and other workplace protections for immigrant and national origin minority workers.

As the Commission considers how best to implement this critical priority, we would like to provide the EEOC with our perspectives. As organizations that represent national origin minority communities, we have long represented clients who have confronted discrimination, harassment, and retaliation due to their ethnicity, English language abilities, and/or perceived immigration status, and who often have difficulty asserting their workplace rights. Based on our collective experience, we have a number of policy recommendations we hope the Commission will consider. For ease of reference, we have organized our recommendations into the following six categories: national origin and other categories of discrimination, language discrimination, workplace segregation, amendments to the Compliance Manual, and linguistic access to the Commission's services. We hope the recommendations assist the EEOC in identifying policies and practices that ensure we meet our shared goal of protecting the civil rights of these vulnerable workers.

National Origin and Other Categories of Discrimination

When initially assessing allegations of discrimination, the EEOC should consider the potentially multi-faceted aspects of the discrimination at issue. Bias is fluid, and is often based upon animosity towards "otherness" that encompasses a number of protected classes, e.g., national origin, race, ethnicity, and/or religion. It is important for the EEOC to take this fluidity into account in the course of investigating discrimination charges. For example, an individual may have experienced discrimination on the basis of several actual or perceived social characteristics. However, charging parties (particularly those proceeding pro se) may not necessarily recognize this or understand the need to preserve claims by checking all of the appropriate boxes upon which discrimination may be based in a charge.

EEOC investigators should take a broad view and, where appropriate, work to actively preserve all of the potential protected category claims in a charge. For example, particularly for pro se charging parties, the

EEOC, where warranted, should actively amend the protected bases for discrimination (the boxes checked) on charges. Findings of fact should also detail all of the potential bases for discrimination, even if they are broader than a charging party checked in the initial charge or provided in the initial narrative supporting her charge. Finally, investigators should be trained to identify cases where discrimination may be based upon a number of protected classes, and to respond appropriately.

The need to consider whether multiple categories should be checked on a charge form is demonstrated by the biases and backlash exhibited against Middle Eastern, South Asian, and Muslim individuals since the terrorist attacks on September 11, 2001. A complainant facing discrimination based on their actual or perceived connection to the Arab World or the Middle East[1] may have claims of race, national origin, and/or religious discrimination, depending on the biases exhibited.

The stereotypes exemplified in the workplace against Arab and South Asian Americans more often rely upon a misconception of the cultures abroad, Islamophobic sentiments, or false associations with criminal/terrorist activity. In other words, a complainant's specific country of origin may have no bearing on the race-based harassment and discrimination to which Arab and South Asian Americans are subjected. At the same time, there are many instances when a complainant's country of origin is one of the factors at issue, thus requiring that the complainant allege national origin discrimination. Consider the following:

- A Muslim woman wearing a hijab (religious headscarf) who has her headscarf torn off by a co-worker making derogatory statements regarding her Iraqi origin could present claims of national origin (Iraqi) and religious (Muslim) discrimination. If the co-worker also made derogatory statements regarding other countries in the Middle East, the complainant may also allege an additional claim of race (Arab) discrimination.

- A Muslim Turkish man who is fired by a manager commenting that the complainant is a "terrorist" because of his long beard and similar appearance to Osama bin Laden may present claims of religious (Muslim) and race (perceived Arab) discrimination. If the manager also made comments against the complainant's Turkish background, national origin (Turkish) discrimination could also be alleged.

- A Sikh man from India whose co-workers subject him to harassment with derogatory comments about "Muslim extremists" in India and Pakistan may present claims of religious (perceived Muslim), race (South Asian), and national origin (Indian) discrimination.

---

[1] Most consider the "Arab World" to include countries such as Lebanon, Iraq, Morocco, Palestine, Jordan, Egypt, Algeria, Tunisia, Libya, Syria, Qatar, Bahrain, Saudi Arabia, Kuwait, Oman, the United Arab Emirates, and Yemen. *See* The American-Arab Antidiscrimination Committee, Facts About Arabs and the Arab World, http://www.adc.org/index.php?id=248 (last visited Feb. 14, 2013). The term "Middle Eastern" refers to persons whose national or ethnic origin arises from Arab countries from Egypt east to the Persian Gulf, including Israel and Iran, but would not include Afghanistan. While individuals from Iran or Turkey would not define themselves as Arab, we also receive complaints from such individuals that they have been misperceived by U.S. citizens to be part of the Arab World.

We believe that the EEOC should more explicitly acknowledge the interplay between national origin, race, and religion in discrimination claims. We hope that this policy recommendation will also be reflected in any revision of the Compliance Manual, as discussed below.

Language Discrimination

Developments in the area of workplace language discrimination make this an opportune time for the Commission to update and expand its policies in this area, whether contained in the Compliance Manual or elsewhere.[2] We hope the Commission will consider a number of these issues.

"Speak-English-only" Policies

1. Hostile Work Environment

We believe that the Compliance Manual and other Commission policy statements should expressly acknowledge and address the potential harassing effect of "speak-English-only" policies. Court of Appeals decisions recognize that "speak-English-only" policies may be enforced in such an unreasonable manner as to give rise to a hostile work environment on the basis of national origin. *See, e.g., Garcia v. Spun Steak Co*., 998 F.2d 1480, 1489 (9th Cir. 1993); *Maldonado v. City of Altus*, 433 F.3d 1294, 1305-06 (10th Cir. 2006). Indeed, our offices have seen a sharp rise in the number of cases where employers enforce English-only policies "in such a draconian manner that the enforcement itself amounts to harassment" or where "the company is enforcing the policy in such a way as to impose penalties for minor slips of the tongue," *Spun Steak*, 998 F.2d at 1488-89, or where Spanish-speaking employees "experienced ethnic taunting as a result of the policy and [ ] the policy made them feel like second-class citizens." *Maldonado,* 433 F.3d at 1304. The Commission should affirm or amend its policies to recognize speak-English-only policies may contribute to a claim for hostile work environment.

2. Bilingual Employees' "Ability to Comply"

It is vitally important for the Commission to reaffirm the validity of 29 C.F.R. § 1606.7(a) (1980), which reasonably presumes speak-English-only policies adversely impact national origin minority workers. Several decisions have properly deferred to the Guideline. *See Maldonado v. City of Altus*, 433 F.3d 1294, 1304-06 (10th Cir. 2006) (*abrogated in part on other grounds*, *Burlington N. & Santa Fe Ry. Co. v. White*, 548 U.S. 53 (2006)) (following the Guideline, distinguishing *Spun Steak*, and finding adverse impact where affected employees were able to comply with the rule); *Gutierrez v. Municipal Court*, 838 F.2d 1031, 1040 (9th Cir. 1988) (*vacated on other grounds*, 490 U.S. 1016 (1989) ("The EEOC guidelines, by requiring that a business necessity be shown before a limited English-only rule may be enforced, properly balance the individual's interest in speaking his primary language and any possible need of the employer to ensure that in particular circumstances only English shall be spoken.").

However, the Commission's reaffirmation is necessary because decisions such as *Garcia v. Gloor*, 618 F.2d 264 (5th Cir. 1980), and *Garcia v. Spun Steak Co*., 998 F.2d 1480 (9th Cir. 1993), suggest speak-

[2] The matters set forth below should also be incorporated into the Guidelines on Discrimination Because of National Origin, 29 C.F.R. § 1606 *et seq*., at the earliest opportunity.

English-only policies are *never* discriminatory under an adverse impact analysis where the impacted employees are able to comply with them.[3] Indeed, *Spun Steak* went so far as to reject the EEOC's well-considered and longstanding Guideline, 29 C.F.R. § 1606.7(a) (1980).[4]

The "ability to comply" argument fails to acknowledge that language is intimately tied to national origin and cultural identity,[5] such that the harm of such policies is direct and substantial. "English-only rules not only symbolize a rejection of the excluded language and the culture it embodies, but also a denial of that side of an individual's personality." *See, e.g., Garcia v. Spun Steak Co*., 13 F.3d 296, 298 (9th Cir. 1993) (Reinhardt, J., dissenting). (noting that "[a]s one commentator observed: 'Language is the lifeblood of every ethnic group. To economically and psychologically penalize a person for practicing his native tongue is to strike at the core of ethnicity.'") (citations omitted). By way of analogy, it would support a requirement that African-American bus riders sit at the back of the bus since they could, as a practical matter, physically comply with such a requirement. Yet the discriminatory and contemptible nature of such a requirement is indisputable. Our organizations have seen countless cases where bilingual employees, or even employees whose English proficiency is very limited, have been forced to suppress their speech simply at the arbitrary whims of management, who lack any employment rationale for the speak-English only policy whatsoever. Astoundingly, this stigmatization and denigration of national origin minorities is fully permissible under the problematic rationale of *Gloor* and *Spun Steak*.

The Commission should expressly articulate a position in response to the "ability to comply" argument that recognizes the very real discriminatory injury an employee suffers when she is forced to stop speaking her primary language, without any countervailing burden upon her employer to demonstrate that such an edict is job-related or consistent with business necessary. There is absolutely no justification for a rule that would permit discrimination as a matter of law simply because the employees in question are theoretically able to conform their behavior to the requirement, however repugnant it may be.

3. The phenomenon of "code-switching"

The Commission should expressly recognize the extensive sociolinguistic research on code-switching. An additional concern about the "ability to comply" argument lies in the fact that bilinguals may unconsciously switch between English and another language in certain settings, most commonly when they are speaking to others who share the same primary language. For this additional reason, even if an employee made every conscious effort to comply with a speak-English-only rule, she might nonetheless unintentionally "code-switch" into her dominant language while speaking with others who share that dominant language. *See, e.g., EEOC v. Premier Operator Services, Inc*., 113 F.Supp.2d 1066, 1070 (N.D. Tex. 2000) (finding

---

[3] Although it has sometimes been offered as additional support for the "ability to comply" argument, *Jurado v. Eleven-Fifty Corp*., 813 F.2d 1406 (9th Cir. 1987), is fundamentally distinguishable. The employer in that case, a radio station, required Jurado, a disc jockey, speak English instead of Spanish because the station had changed from a Spanish-language format to an English-language format. Because it had specifically chosen to reach out to an English language listenership, the employer was indisputably within its rights to require the plaintiff to perform his job consistent with that format.

[4] *Gloor* was decided before the Commission adopted 29 C.F.R. § 1606.7, and thus the court in that case did not have the benefit of that guidance.

[5] *See, e.g., Garcia v. Spun Steak Co*., 13 F.3d 296, 298 (9th Cir. 1993) (Reinhardt, J., dissenting).

code switching not volitional in nature). This means that code switching is especially relevant in service occupations where bilinguals are required to speak with, for instance, Latino customers in Spanish, but are then prohibited from speaking anything but English to their Latino co-workers. The unconscious nature of this phenomenon, which cannot be eliminated by intentional effort, renders the "ability to comply" argument at odds with the linguistic reality of speech.[6]

Although 29 C.F.R. § 1606.7(c) recognizes that individuals will inadvertently change from speaking in one language to another, it appears to assume – incorrectly -- that they can prevent themselves from code-switching if they are simply put on notice of the negative consequences of doing so, and that they can do easily and without a significant burden. Thus, § 1606.7(c) should be revised accordingly.

4. Business necessity

As further detailed (non-exhaustively) below in our specific comments to the Compliance Manual, we believe the Commission should revisit and clarify its position on the types of justifications that will, and will not, suffice to meet the employer's burden of proof that a speak-English-only policy is supported by business necessity.

Most importantly, we recommend the Commission require employers provide actual support when claiming business necessity. Regrettably, the case law in this area is often informed in substantial part by uncritical conclusions by the triers of fact as to the merits of business necessity claims. For instance, in *Kania v. Archdiocese of Philadelphia*, 14 F.Supp.2d 730, 736 (E.D. Pa. 1998), the district court accepted the defendant's assertion that it adopted its English-only rule to improve interpersonal relations, and found the claim satisfied the business necessity standard as a matter of law, without any supporting factual inquiry. *See also EEOC v. Sephora USA, LLC*, 419 F.Supp.2d 408, 415-418 (S.D.N.Y. 2005) (accepting the employer's argument that an English-only policy was a "common sense rule against offending customers"). Indeed, in *Long v. First Union Corp. of Virginia*, 894 F.Supp. 933, 941 (E.D. Va. 1995), the district court misapplied the adverse impact standard altogether, mistakenly stating that "Plaintiffs bear the burden of proving that defendant's temporary policy was not legitimate and necessary for business."

Other district courts, however, have appropriately required more than conclusory assertions of business necessity. *See, e.g., Reyes v. Pharma Chemie, Inc.*, 2012 WL 3962683, *13 (D. Neb. Sept. 11, 2007) ("The proffered justifications are legitimate in and of themselves—but PCI has been conspicuously silent on the specifics behind its policy."); *EEOC v. Premier Operator Services, Inc*., 113 F.Supp.2d 1066. 1070 (N.D. Tex. 2000) ("Insufficient credible evidence has been presented by the Defendant during this litigation

[6] What is more, code-switching is often a reflection and expression of the speakers' ethnic identity, such that attempts to suppress bilinguals' use of their primary languages are, in effect, attempts to suppress core aspects of their identity in a national origin community. As the Supreme Court has observed, "Language permits an individual to express both a personal identity and membership in a community, and those who share a common language may interact in ways more intimate than those without this bond. Bilinguals, in a sense, inhabit two communities, and serve to bring them closer." *Hernandez v. New York*, 500 U.S. 352, 370 (1991). *See also* Line Drawing, Code-Switching, and Spanish as Second-Hand Smoke: English-Only Rules and Bilingual Employees, 20 Yale Law and Pol'y Rev. 227, 250-53 (2002)(noting rigorous control over language choice is particularly difficult for bilinguals who grew up in Spanish-speaking households and in majority Latino communities, where they "automatically" spoke Spanish, or "switched" between Spanish and English, with anyone whom they assumed to be Latino and bilingual)

. . . to establish by a preponderance of the evidence that there was any business necessity for the speak-English-only policy that was implemented."). Considering the frequency of employers relying on a business necessity, we recommend the Commission adopt the reasoning in *Reyes* and *Premier Operator Services* to ensure such justification is applicable.

In addition, we recommend the Commission reject employer attempts to argue customer preference and/or co-worker morale creates a business necessity for an English-only rule. Unfortunately, many district court decisions have upheld speak-English-only rules on the ground that they are necessary in order to preserve co-worker morale.[7] These cases typically involve assumptions, by monolingual English-speaking employees, that the speakers of other languages are talking about them, and that the speech in question is derogatory in nature. Other cases, similarly, have found such rules justified as a response to customer preferences.[8]

But there is an inherent, indeed logical, difficulty in drawing such conclusions merely from the fact that monolingual English speakers do not understand the languages being spoken. It is even more problematic to ratify those negative suppositions by imposing language restrictions that selectively burden national origin minority employees and stigmatize them as the source of discord. And to be sure, such decisions are flatly at odds with settled civil rights law, as well as longstanding Commission positions, which make clear that employers may not cater to the discriminatory prejudices of co-workers or customers by imposing discriminatory terms and conditions of employment. *See* EEOC Compliance Manual, Section 13, III(A)("employers may not rely on coworker, customer, or client discomfort or preference as the basis for a discriminatory action. If an employer takes an action based on the discriminatory preferences of others, the employer is also discriminating").

We urge the Commission to reaffirm that the invocation by employers of co-worker and customer fears to justify the imposition of speak-English-only policies is inconsistent with both foundational Title VII precedent and the EEOC's own administrative authorities.

<u>"English Fluency" Issues</u>

1. English Proficiency Discrimination

The Commission should reaffirm the utility of the Uniform Guidelines on Employee Selection Devices, 29 CFR § 1607, as a benchmark for evaluating whether English-proficiency tests are valid. As opposed to "speak-English-only" policies, which mandate the speaking of English, English proficiency requirements call

---

[7] *See, e.g., Prado v. L. Luria & Son, Inc*., 975 F.Supp. 1349, 1357 (S.D. Fla. 1997) ("An insistence that employees speak English in the workplace serves the added business purpose of minimizing the sense of alienation and resulting hostility felt by employees and customers who don't speak or understand the foreign language."); *Long v. First Union Corp. of Virginia*, 894 F.Supp. 933, 942(E.D. Va. 1995) (concluding, in disparate treatment context, that complaints by co-workers that plaintiffs were making fun of them in Spanish and made the co-workers uncomfortable was a legitimate non-discriminatory justification for the policy); *Tran v. Standard Motor Products, Inc*., 10 F.Supp.2d 1199, 1210 (D.Kan.1998) (finding that "prevent[ing] non-Vietnamese employees from feeling as if they were being talked about by Vietnamese employees was "legitimate business reasons" for rule); *Roman v. Cornell Univ*., 53 F.Supp.2d 223, 237 (N.D.N.Y. 1999) (approving of speak-English-only policy enacted to "relieve a tense working environment").

[8] *See, e.g., EEOC v. Sephora USA, LLC*, 419 F.Supp.2d 408, 417 (S.D.N.Y. 2005).

for employees to demonstrate proficiency in English as a condition of employment. But such requirements are similarly unlawful if they adversely impact a national origin minority community and if they cannot be proven to be tailored to the job requirements.

To the extent that an employer may require employees to submit to testing to determine their levels of proficiency, such testing must test for the *type* of English language skill called for (e.g., writing, reading, comprehension, speech), and the *level* of proficiency called for – *i.e.*, whether the employee has mastered the vocabulary and type of communication she must *actually* engage in during the performance of work duties. By contrast, the use of testing devices that are not designed to measure the types of English abilities actually needed for the jobs in question (such as general tests of English writing and reading comprehension), or a requirement that employees take general ESL classes, are unlikely to satisfy the business necessity standard. The same concerns apply with equal or greater force where an employer's evaluation of an employee's proficiency is based not on the results of a test but, instead, upon a subjective or purportedly "commonsense" evaluation of proficiency.

2. Accent Discrimination

The Commission should insist upon "a searching look" into employers' proffered reasons for using accent as a basis for adverse employment decisions.[9] Accent discrimination, an important subset of English proficiency discrimination, has received serious attention from the federal courts. The leading case in this area, *Fragante v. City and County of Honolulu*, 888 F.2d 591 (9th Cir. 1989), correctly observed that "[a]ccent and national origin are obviously inextricably intertwined in many cases. It would therefore be an easy refuge in this context for an employer unlawfully discriminating against someone based on national origin to state falsely that it was not the person's national origin that caused the employment or promotion problem, but the candidate's inability to measure up to the communications skills demanded by the job." *Id*. at 596. *Fragante*, accordingly, set forth the now-controlling standard that "[a]n adverse employment decision may be predicated upon an individual's accent when -- but only when -- it interferes materially with job performance." *Id*. *See also Carino v. Univ. of Oklahoma Bd. of Regents*, 750 F.2d 815, 819 (10th Cir. 1984) ("A foreign accent that does not interfere with a Title VII claimant's ability to perform duties of the position he has been denied is not a legitimate justification for adverse employment decisions.").

We believe that the Commission should expressly affirm the long-standing *Fragante* standard, and its insistence on job-relatedness, in its Guidelines on Discrimination Because of National Origin, the Compliance Manual, and its other sources of policy and guidance. Affirmation of the *Fragante* standard is necessary due to the failure of courts to analyze accent discrimination claims with respect to the actual requirements of the job in question. For example, in *Mejia v. New York Sheraton Hotel*, 459 F. Supp. 375 (S.D.N.Y. 1978), the district court conclusorily noted that " [hotel] management found that the plaintiff's language barrier was a stumbling block to a front office post for the plaintiff, a post that would necessarily bring her in contact and communication with the guests of the hotel." *Id at 376.* But absent from the district court's analysis was any indication of *how* the hotel had reached its conclusion – *i.e.*, whether it had used any *job-related* criteria to assess the plaintiff's ability to perform the job, or done anything other than

[9] 888.F.2d 591, 596 (9th Cir. 1989). (emphasis added).

uncritically accept the employer's representation that the plaintiff's accent was indeed a "stumbling block."[10] Properly ascertaining whether the plaintiff's type and degree of English proficiency was suited for the particular job in question should involve a job analysis to determine the actual English language requirements of the position as a practical matter. And among other alternative measures, the hotel could have better assessed the adequacy of her English by placing her at the front desk in a supervised setting to determine if she could successfully carry out her job functions.

Likewise, courts have disposed of accent discrimination claims based on generalized employer assertions that the job in question requires the ability to communicate. In *Meng v. Ipanema Shoe Corp*., 73 F.Supp.2d 392 (S.D.N.Y. 1999), for example, the district court rejected a claim of accent discrimination simply by noting that because "part of Ms. Meng's functions were [sic] to communicate with customers. Ipanema could, therefore, permissibly consider her communication skills in deciding which employees to let go." *Id.* at 399. In these and other cases, the courts effectively abdicated their responsibility under *Fragante* to undertake a "searching inquiry" and require the employer to do something more than articulate a reason that had only facial plausibility.

Finally, the Commission should consider addressing the issue of listener bias, which may skew an employer's perception of whether the accent of the employee in question in fact "interferes materially with [her] job performance." *See, e.g., Surti v. G.D. Searle & Co*., 935 F. Supp. 980, 987 (N.D. Ill. 1996) (noting that "[a] major complicating factor in applying Title VII to accent cases is the difficulty in sorting out accents that actually impede job performance from accents that are simply different from some preferred norm imposed, whether consciously or subconsciously, by the employer.") (*quoting* Matsuda, Voices of America: Accent, Antidiscrimination Law, and a Jurisprudence for the Last Reconstruction, 100 Yale L.J. 1329, 1352 (1991)).

Workplace Segregation Based on National Origin

One form of national origin-based discrimination is segregation. While at least one court has addressed segregation based on national origin resulting in greater burdens on plaintiffs' employment conditions and benefits, *see Perez v. FBI*, 707 F. Supp. 891, 909-11, 47 FEP 1782 (W.D. Tex. 1989), the EEOC should clarify that segregation in its own right constitutes discrimination, even when a segregated employee experiences no economic harm.

In some cases, employees have been segregated from customers and the general public in the name of corporate image. Some courts have even held that segregation of this nature is consistent with Title VII in the context of religious accommodation. *See, e.g., Birdi v. United Airlines, Corp,* No. 99 C 5576, 2002 WL 471999, 2002 U.S. Dist. LEXIS 9864 (N.D. Ill. 2002) (holding that an employer satisfied its Title VII to reasonably accommodate a turbaned Sikh employee by offering him positions out of public view).

To protect workers from segregation on the basis of national origin, the EEOC should explicitly state in its guidance documents, training materials, press releases, and Compliance Manual that segregation, on the

[10] Aside from noting that the plaintiff had been a "poor student" in the English classes she had taken (a fact of questionable relevance given the non-job-related nature of general ESL classes), the court found that she had "an English language deficiency" because her trial testimony was difficult to understand. *Id.* at 377. But whether or not the plaintiff is sufficiently proficient for a court proceeding is an entirely different question from whether she would have been able to conduct the presumably routine conversations required of a hotel clerk.

basis of any protected category, violates Title VII. It is vitally important for the EEOC to use the word "segregation" consistently in its literature because employers immediately understand its repugnance. In its publication entitled, Facts about Race/Color Discrimination, the EEOC explicitly states that "Title VII is violated where minority employees are segregated by physically isolating them from other employees or from customer contact." (a*vailable at* http://www.eeoc.gov/facts/fs-race.html.) Similarly, in explaining the importance of the Americans with Disabilities Act, the EEOC points out that "historically, society has tended to isolate and segregate individuals with disabilities." (a*vailable at* http://www.eeoc.gov/laws/statutes/ada.cfm.)

In this context, the EEOC should also clarify that corporate image policies are often a proxy for customer preference. Although the EEOC's guidance documents specifically point out that customer preference cannot be used as a basis for discriminating against workers, the agency should also acknowledge that corporate image policies are also discriminatory. Corporate image policies are often based on actual or perceived customer preference – ascertained, for example, through marketing studies or focus group tests. Regardless, much like customer preferences, corporate image policies cannot be used as a basis for discriminating against workers based on their national origin.

Retaliation

Retaliation, though illegal under Title VII, is a common practice among employers in the United States. The EEOC handled nearly 40,000 cases of retaliation in its last fiscal year.[11] One recent study found that, among some 4,000 low wage workers in New York, Chicago and Los Angeles, 43 percent of those that made complaints about wages or working conditions suffered retaliation in some form.[12] In particular, employers and their agents are far too frequently ready, willing, and able to use a worker's perceived immigration status as a tool to defeat Title VII claims. When workers are too afraid to come forward with Title VII complaints, the most egregious violations are not brought to the EEOC's attention, and its ability to enforce the law is severely undermined.

To ensure that the most vulnerable workers have access to legal protection, the EEOC should adopt some best practices in use by other labor agencies. First, EEOC investigators can prevent retaliation by making it a practice in every case to issue a letter to employers warning them that taking adverse action against a charging party, including discharge, threats, or making reports to immigration authorities, is illegal. Second, EEOC can alert charging parties that they should contact EEOC if any such retaliation occurs. Where it does occur, EEOC should have in place a "rapid response" plan to contact employers, warn them that retaliation is unlawful and demand reversal of any retaliatory action. In addition to protecting national origin minority workers, we believe these practices will assist the Commission in fulfilling its SEP goal of integrating efforts between investigators and legal staff.

---

[11] Scott Flaherty, *Retaliation, Race Bias Top EEOC Complaints In 2012*, Law 360, (Jan. 29, 2013), available at http://www.law360.com/articles/410694/retaliation-race-bias-top-eeoc-complaints-in-2012.

[12] Annette Bernhardt, Ruth Milkman, Nik Theodore et al., *Broken Laws, Unprotected Workers: Violations of Employment and Labor Laws in America's Cities*, National Employment Law Project, (2009), available at http://www.unprotectedworkers.org/index.php/broken_laws/index/.

The Compliance Manual -- National Origin Discrimination

In addition to the policy recommendations discussed above, we reviewed the Compliance Manual's section on National Origin Discrimination. The EEOC's Compliance Manual is an essential tool for employers to verify they are in compliance with Title VII and to ensure they are not violating workers' civil rights. For that reason, we believe the policy recommendations above should be implemented in tandem with a revision of the Compliance Manual section on National Origin Discrimination. Specifically, the Compliance Manual should be updated to reflect recent court decisions and lessons learned from the considerable enforcement experience of the Commission and civil rights organizations such as ours. To that end, we recommend the Commission consider the following changes:

Overview.
The Compliance Manual was last updated over a decade ago. Since then, the causes of discrimination against national origin minorities have expanded. As discussed above, discrimination against persons from the Middle East, South Asia, and Muslim nations increased significantly after the attacks on September 11, 2001. In addition, state and local laws in Arizona, Alabama, Georgia, and other localities created an anti-immigrant animus that blames immigrants for the country's economic and social problems. The Overview section should reflect these evolving sources of national origin discrimination.

Statistics.
We recommend updating the statistics throughout the Compliance Manual to include 2010 Census data and/or the most recent Bureau of Labor Statistics data. The Overview, Harassment, and Language Issues sections contain outdated statistics. We hope a revised Compliance Manual will reflect notable demographic changes, including the fact that the Asian American population grew faster than any other racial group nationwide.[13]

What is "National Origin" Discrimination?
This section should reflect our recommendations above regarding national origin discrimination and other categories of discrimination. Specifically, it should define national origin as indicated by not only "common language, culture, ancestry, and/or other similar social characteristics," but race, ethnicity, and religion. Furthermore, Section 13-II(B), discussing a "national origin group," should advise that a claim of race discrimination must be considered when a particular ethnic group has been targeted by the offender.

Employment Discrimination Against a National Origin Group
We recommend revising Section 13-II.B, which states that "[e]mployment discrimination against a national origin group includes discrimination based on" ethnicity; physical, linguistic, or cultural traits; and perception. We believe that it would be helpful to employers to add an additional bullet that makes explicit that national origin discrimination includes discrimination based on:

> **Actual or perceived immigration or citizenship status:** Employment discrimination against an individual because of his actual or perceived immigration or citizenship status that has the purpose or effect of discriminating based on national origin. For example, it would violate Title VII for an employer to fail to hire a lawful permanent

[13] *See* Asian American Center for Advancing Justice, *A Community of Contrasts: Asian Americans in the United States 2011*, http://www.advancingjustice.org/pdf/Community_of_Contrast.pdf (last visited Feb. 6, 2013).

> resident of Mexican descent based on an inaccurate assumption that because of the individual's ethnic background, the individual is likely to be an undocumented immigrant.

Example 1.
This example fails to acknowledge the possibility of race discrimination asserted by an Arab complainant:

> NATIONAL ORIGIN AND RELIGIOUS DISCRIMINATION
>
> Thomas, who is Egyptian, alleges that he has been harassed by his coworkers about *his Arab ethnicity*. He also has been subjected to derogatory comments about Islam even though he has told his coworkers that he is Christian. Thomas' charge should assert both national origin and religious discrimination.

Note that the example refers to harassment based on "Arab ethnicity," rather than specifically Thomas' Egyptian national origin. Thomas' EEOC charge should thus allege race (Arab), national origin (Egyptian), and religious (perceived Muslim) discrimination, to ensure that his claims are properly presented

Recruitment.
We largely agree with the Compliance Manual's statement that "Title VII prohibits employers from engaging in recruitment practices that discriminate on the basis of national origin"; we are, however, concerned that without additional explanation, this statement could discourage employers from undertaking lawful recruitment practices that are intended to increase the overall racial or ethnic diversity of the applicant pool. Indeed, in Section 13-III.A.2, on Best Practices, the Compliance Manual recognizes that a best practice is for employers to engage in recruitment strategies that will result in "a diverse pool of job seekers." Thus, clarifying in 13-III.A.1 that lawful recruitment practices intended to increase diversity would not be prohibited is entirely consistent with the Compliance Manual's existing approach. Accordingly, we recommend revising 13-III.A.1 to include the following statement at the end of the first paragraph:

> However, as discussed below, practices aimed at increasing the overall diversity of the applicant pool that do not exclude any particular national origin groups would nonetheless be lawful.

Hiring, Promotion, and Assignment.
The paragraph on "Customer Preference" contains an often-overlooked principle that employers cannot rely on customer preference as the basis for a discriminatory action. We recommend expanding the "Customer Preference" paragraph to include a more complete example and to clarify that *neither perceived nor actual* discriminatory customer preferences are a proper basis for a job decision. As currently written, "Example 4" suggests only that an employer cannot base a hiring decision on the assumption that customers would negatively perceive a worker's ethnicity. It should be clarified that, even if customers *had* such negative perceptions, those perceptions do not justify the employer's failure to hire the worker. In addition, we believe the principle should be reiterated. We recommend adding a similar "Customer Preference" paragraph regarding to (1) the section regarding disciplining, demoting, and/or discharging a worker to clarify discriminatory customer preference does not justify any job decision, not just hiring decisions; and (2) the Language Discrimination section since "customer fear that workers are talking about them" is routinely cited by employers as a business justification for imposing an English-only policy.

Security Requirements

The first paragraph of this section states, "the Commission may not review the substance of a security clearance determination or the security requirement itself." Based on this, an employer may mistakenly believe the Commission is precluded from reviewing any security clearance requirement the employer elects to adopt when, in fact, the Commission is only precluded from reviewing those security requirements that are federally-mandated. We recommend clarifying that the Commission may not review the substance of "*a federal agency's* security clearance or the *federally-imposed* security requirement itself." This change is also necessary to clarify the difference between the first paragraph's discussion of federally-mandated security requirements and the second paragraph's discussion of "other security requirements."

Example 10.

We recommend changing the policy used in this example:

> DISCRIMINATORY ENFORCEMENT OF TARDINESS POLICY
>
> XYZ Foods, a grocery store, has a written policy *of docking workers' pay for being late*. Stephanie, a Somali employee, was docked pay as a penalty for being 15 minutes late on two occasions. While other Somali workers have also been docked pay for being late, Hmong workers have been given warnings or permitted to make up the time for comparable violations. Because XYZ treats Somali employees who violate its tardiness policy more severely than Hmong employees who violate it, the company has discriminated against Stephanie based on her national origin.

A policy of docking workers' pay is problematic regardless of whether it is applied discriminatorily. Depending on the way the policy is structured, docking a worker's pay may be illegal; for example, docking may result in a worker being paid less than minimum wage, which is unlawful.

Title VII's Prohibition Against National Origin Harassment.

This section identifies harassment as "ethnic slurs, workplace graffiti, or other offensive conduct directed towards an individual's birthplace, ethnicity, culture, or foreign accent." We recommend adding that harassment includes conduct directed towards an individual's "language" and "dress" given that many workers may not speak English and/or may wear distinct clothing, including hijabs, turbans, etc., which though related to one's religion, may be a marker of one's national origin as well.

Example 12.

This example misidentifies the worker as Arab-American:

> **OFFENSIVE CONDUCT BASED ON NATIONAL ORIGIN THAT VIOLATES TITLE VII**
>
> Muhammad, *an Arab-American*, works for XYZ Motors, a large automobile dealership. His coworkers regularly call him names like "camel jockey," "the local terrorist," and "the ayatollah," and intentionally embarrass him in front of customers by claiming that he is incompetent. Muhammad reports this conduct to higher management, but XYZ does not respond. The constant ridicule has made it difficult for Muhammad to do his job. The

> frequent, severe, and offensive conduct linked to Muhammad's national origin has created a hostile work environment in violation of Title VII.

However, the example comes from a case involving an Iranian American, as noted by reference to "the ayatollah." *See Amirmokri v. Baltimore Gas & Electric Co.*, 60 F.3d 1126 (4th Cir. 1995). We recommend changing the example to reflect an Iranian's ethnicity would be considered Persian, not Arab.

Example 13.
This example attempts to identify conduct that does not violate Title VII:

> **OFFENSIVE CONDUCT BASED ON NATIONAL ORIGIN THAT DOES NOT VIOLATE TITLE VII**
>
> Henry, a Romanian emigrant, was hired by XYZ Shipping as a dockworker. On his first day, Henry dropped a carton, prompting Bill, the foreman, to yell at him. The same day, Henry overheard Bill telling a coworker that foreigners were stealing jobs from Americans. Two months later, Bill confronted Henry about an argument with a coworker, called him a "lazy jerk," and *mocked his accent*. Although Bill's conduct was offensive, it was not sufficiently severe or pervasive for the work environment to be reasonably considered sufficiently hostile or abusive to violate Title VII.

However, the example creates confusion among employers as to what constitutes harassment and what discriminatory behavior should be disciplined. More specifically, it suggests employers are allowed to mock a worker's accent. It does not recognize that comments regarding a worker's accent may constitute national origin discrimination. We recommend either eliminating this example altogether or deleting the foreman's reference to the worker's accent.

Harassment—Liability.
We recommend revising this section to consider the barriers faced by employees with limited English proficiency. The section states, "failure by an employee to take reasonable steps to report harassment may preclude the employee from being able to hold an employer responsible for the harassment." However, the Commission must consider, in evaluating whether an employee took such reasonable steps to report, prevent, or correct harassment, whether the employer's procedures for reporting harassment were practicably accessible to the employee in the employee's own language. The Commission should add language regarding practicability and viability of such procedures to this Section of its Compliance Manual, and should further require that employers must provide interpreters and/or other appropriate language assistance to ensure that employee can properly report national origin harassment confidentially. The Commission should also clarify that any failure to report harassment does not justify employer action and/or retaliation against the non-reporting employee.

In addition, we believe revising this section is necessary to prevent unlawful retaliation. While employees must take appropriate steps to notify the employer of harassment in order to bring a Title VII claim, it should be clarified that employers are not allowed to discipline an employee if the employee filed her EEOC charge without having reported the harassment in advance. To that end, we recommend adding the following language at the end of the last paragraph: "Failure to report such harassment does not justify employer action and/or retaliation against the non-reporting employee."

Language Issues—Missing Examples.
In both the "Accent Discrimination" section and the "English proficiency" section, the Commission provides several examples of lawful conduct by employers. We recommend the Commission add at least one example each of unlawful conduct in order to educate employers as to what constitutes accent discrimination and language discrimination.

Foreign Language Fluency.
Because it is overbroad, we recommend the Commission delete the last phrase--"and [employers] are not required by Title VII to provide additional compensation for work that is performed in a foreign language." Although Title VII may not require doing so in some situations, employers should be encouraged to analyze whether a worker's additional language duties are more onerous and whether additional compensation is appropriate.

Application of Title VII to English-Only Rules.
Language is routinely used as a proxy for national origin discrimination. Considering the ease in which employers may use language to circumvent Title VII protections, we recommend this section be expanded to explicitly recognize that English only rules: (1) have a disparate impact on workers based on their national origin, (2) give rise to a hostile work environment, (3) are unlawful even when applied to workers with some limited English ability, and (4) cannot be based on customer or coworker's discriminatory preferences. The following is our proposed language:

> Title VII permits employers to adopt English-only rules only under certain circumstances. English-only policies should not be imposed merely because of coworker or customer preference. For example, English-only policies should not be imposed merely because some non-Spanish-speaking employees dislike eating lunch in the same room or working with coworkers who engage in conversations in Spanish. Nor should such policies be imposed merely because some non-Mandarin-speaking customers dislike shopping while overhearing two employees engage in conversations in Mandarin.[14]
>
> An English-only rule may constitute either intentional discrimination or disparate impact discrimination. As with any other workplace policy, an English-only rule must be adopted for nondiscriminatory reasons. 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 that prohibits some but not all of the foreign languages spoken in a workplace, such as a no-Navajo rule, would be unlawful. The fact that an employee subjected to an English-only policy may speak some English, or even be completely bilingual in English and another language, is irrelevant in determining whether that English-Only policy is unlawful.

[14] Statement of EEOC Legal Counsel Reed Russell on English-Only Policies to U.S. Civil Rights Commission, December 12, 2008, http://www.usccr.gov/statements/Statement%20of%20Reed%20Russell%20re%20English-Only%20Briefing.pdf (last visited Feb. 6, 2013).

> In addition, under some circumstances, adoption of an English-only policy will constitute a hostile work environment. An English-only policy that applies at all times of the workday will satisfy the "pervasive" element of a hostile work environment claim. In deciding whether to adopt such a policy, employers should be mindful that the policy itself, and not just the effect of the policy in evoking hostility by co-workers, may create or contribute to the hostility of the work environment.[15]

Example 19.
This example attempts to illustrate Title VII limitations on English-only rules:

> **ENGLISH-ONLY RULE: INTENTIONAL DISCRIMINATION**
>
> XYZ Textile Corp. adopts a policy requiring employees to speak only English while in the workplace, including when speaking to coworkers during breaks or when making personal telephone calls. XYZ places Hispanic workers under close scrutiny to ensure compliance and replaces workers who violate the rule with non-Hispanics. Jose, a native Spanish speaker, files a charge with the EEOC alleging that the policy discriminates against him based on his national origin. XYZ states that the rule was *adopted to promote better employee relations and to help improve English skills*. However, the investigation reveals no evidence of poor employee relations due to communication in languages other than English. Nor are proficient English skills required for any of the positions held by non-native English speakers. Because XYZ's explanation is contradicted by the evidence, the English-only rule is unlawful.

We believe the example undermines Title VII's protections. It suggests an English-only rule that is "adopted to promote better employee relations and to help improve English skills" is lawful and that mere "evidence of poor employee relations due to communication in [non-English] languages" would justify an English-only rule. For some employers, this would be a green light to impose an English-only rule based on amorphous and patronizing reasons and/or based on a customer or co-worker's discriminatory preference. As discussed earlier, we do not believe this is allowed under Title VII. In addition, we have significant concerns about Example 19's listing of situations which would justify an English-only rule, particularly because, as discussed below, three of the four listed situations are problematic:

- For communications with customers, coworkers, or supervisors who only speak English
- In emergencies or other situations in which workers must speak a common language to promote safety
- For cooperative work assignments in which the English-only rule is needed to promote efficiency
- To enable a supervisor who only speaks English to monitor the performance of an employee whose job duties require communication with coworkers or customers

We feel strongly that the Commission should eliminate this list altogether and instead list situations which would not count as a business necessity. Alternatively, if the Commission disagrees and decides to keep

---

[15] *Maldonado v. City of Altus*, 433 F.3d 1294, 1305-06 (10th Cir. 2006).

the bullet-point list of justified reasons for imposing an English-only policy, we would propose the following amendments:

> *Second Justification.* As written, this suggests an English-only policy is justified "in emergencies or other situations in which workers must speak a common language to promote safety." However, this presumes the workers' "common language" is English and appears to be based on "common sense" notions rather than a fact-specific, objective inquiry into the employer's business necessity. It should be eliminated or re-worded.
>
> *Third Justification*. This situation suggests an English-only policy is justified if meant "to promote efficiency," which is vague. We propose amending this to state an English-only policy may be permissible "where, in addition to the collaborative nature of the work, it is necessary that all persons involved understand everything that everyone says for the job to be performed successfully; and where the consequences of a failure of communication are serious and irremediable; for example, in an air traffic control room, operating room, and/or oil drilling team."
>
> *Fourth Justification*. This suggests an English-only policy is allowed if necessary for a supervisor "to monitor the performance of an employee." It is the nature of the work that should dictate the language required in the workplace, not the nature of how that work is supervised. In fact, the nature of the work may require an employee speak a language other than English in order to communicate with co-workers or customers. We recommend this bullet-point be eliminated or re-worded. Instead, the Commission should encourage employers to hire bilingual supervisors and consider other methods for monitoring an employee's work.

Example 20.
This example is problematic for the same reasons mentioned in Example 19:

> **PERMISSIBLE ENGLISH-ONLY RULE: PROMOTING SAFETY**
>
> XYZ Petroleum Corp. operates an oil refinery and has a rule requiring all employees to speak only English during an emergency. The rule also requires that employees speak in English while performing job duties in laboratories and processing areas where there is the danger of fire or explosion. The rule does not apply to casual conversations between employees in the laboratory or processing areas when they are *not* performing a job duty. The English-only rule does not violate Title VII because it is narrowly tailored to safety requirements

While we recognize there may be value in having all of the workers speak one language in an emergency situation, the example should not assume the common language is English. If all of the workers are native Spanish speakers, for example, there is no reason to require workers to speak English during an emergency. Additionally, the bullet-point list of factors an employer may consider in evaluating whether to adopt an English-only rule should be clarified:

- Evidence of safety justifications for the rule
- Evidence of other business justifications for the rule, such as supervision or effective communication with customers
- Likely effectiveness of the rule in carrying out safety objectives
- English proficiency of workers affected by the rule

Specifically, we recommend emphasizing that "evidence" of safety justifications or other business justifications must be "objective." It cannot be based on the employer's "common sense" notions regarding the importance of speaking English. In addition, we recommend deleting "such as supervision or effective communication with customers" from the second bullet-point. Since no one argues that a Spanish-speaking worker should speak in Spanish to a monolingual English-speaking customer, this phrase merely confuses the difference between English-only rules and English-proficiency requirements. Finally, we would also add a factor to ensure employers consider "whether the restriction is narrowly tailored to the business justification."

English-only Rules—Missing Example.
English-only rules may also violate Title VII absent an employer's intent to discriminate. English-only rules also have a disparate impact on national origin minorities. We recommend also including an example of the disparate impact of English-only rules.

Fluency Requirements.
The Commission should consider revising and renaming Section 13-V.B, "Fluency Requirements," so as to provide a fuller and more precise treatment of the topics of (1) discrimination on the basis of English language *proficiency*, and (2) discrimination on the basis of *accented* spoken English.

Citizenship-related Issues
The Compliance Manual properly recognizes that discrimination based on citizenship "violate[s] Title VII when it has the 'purpose or effect of discriminating on the basis of national origin." However, the Compliance Manual does not provide sufficient guidance to employers on this topic. We recommend revising the Compliance Manual to provide greater clarity to employers.

Specifically, the introduction to Section 13-VI.A, on Citizenship Requirements, should be revised to explain three points that are not currently addressed. First, pursuant to a separate federal law, the Immigration Reform and Control Act of 1986, the only relevant immigration- or citizenship-related eligibility requirement for private employers is whether the individual has federal employment authorization. The same federal statute provides a process that employers must follow to verify that the employee is authorized to work. As long as the employee is authorized to work in the United States, as a general matter there should be no other citizenship or immigration-related requirement imposed by private employers for employees working in the United States.

Second, this section should clarify that, in addition to policies that would be intentionally discriminatory, distinctions made between or among employees or job seekers based on citizenship or immigration-based may also violate Title VII if they have a disparate impact based on national origin. For example, if a private employer has a policy of hiring only citizens in a community where most job seekers of Asian descent are noncitizens, this may violate Title VII if it disproportionately excludes qualified Asian individuals from being hired. Such a policy may also violate federal law in other respects.

Third, discrimination against an individual because of his or her perceived immigration status would also violate Title VII where the basis for the perception is stereotypes or assumptions based on the individual's national origin.

Linguistic Access to the Commission's Services

We commend the Commission's efforts to make its processes accessible to individuals with limited English proficiency in order to comply with its obligations under Title VI of the Civil Rights Act, Executive Order 13166, and the Plan of the Equal Employment Opportunity Commission for Improving Access to Services for Persons with Limited English Proficiency (LEP Access Plan). However, obstacles still remain that prevent aggrieved employees from pursuing rights and remedies to which they may be lawfully entitled. Providing equal access to the Commission's investigation and conciliation procedures as well as to its legal representation in cases the Commission litigates is essential to its efforts to end national origin discrimination.

To accomplish this, the Commission should (a) consider the practicability of following employer reporting procedures for employees who may be unable to timely report harassment because of a lack of language access; (b) ensure prompt, high-quality interpretation services are available to and used by intake workers interacting with individuals contacting the EEOC to report discrimination; (c) ensure that high-quality interpretation services are available to and used by investigators when discussing a charge with a charging party or witness with limited English proficiency; (d) ensure that high-quality interpretation services are available to and used by Commission staff pursuing cases in litigation; and (e) ensure that in all of these settings, charging parties and potential charging parties, as well as witnesses, are not asked to provide or pay for their own interpreters, and are not subjected to delay in filing or pursuing a charge because the Commission lacks sufficient interpretation.

The Commission must also ensure that all employees have prompt and unfettered access to its own investigation, conciliation, and litigation procedures without limitation on the basis of an employee's primary language. While the Commission sets forth procedures in Section V of its LEP Access Plan, these procedures are inconsistently implemented, such as the Commission's plan to "Whenever possible, offices rotate staff assignments to ensure a bilingual staff member is always available in vital program areas, such as intake." In certain regions, it is common for charges filed by limited English proficient employees or charges whose investigation requires interviews of limited English proficient witnesses to be delayed in their consideration while investigators with capacity in additional languages are loaned to a different office to assist in an investigation. Not all offices currently provide investigators able to interview employees and witnesses in common primary languages other than English, nor do all offices currently use prompt access to telephonic or other interpretation services when necessary. Such delays decrease the likelihood that investigations will reach an accurate cause determination as witnesses become unavailable and evidence is spoliated.

Similarly, the procedure that, where bilingual staff are unavailable, "the office will make arrangements for an interpreter from the office's list of language assistance resources" is not consistently followed. EEOC staff have asked for charging parties or aggrieved workers whose interests the Commission represents in litigation to pay for independent interpreters at their own cost or to provide such interpreters in order to avoid delay in their case. To address these lapses, the Commission should ensure that all offices have

functioning lists of language assistance resources at all times, and that staff are provided with the necessary budget to cover interpretation expenses without delaying investigations or litigation-related interviews. While the LEP Access Plan states that individuals will not be asked to pay for the EEOC's services, the Commission should also clarify that individuals will not be asked to provide or pay for their own interpretation. Relatedly, the Commission must not require that charging parties or witnesses provide or pay for their own interpretation. While many charging parties and witnesses opt to comply with such requests when made by EEOC investigators or attorneys in order to avoid delay in their cases, the inconsistency and obstacles to justice limits the accessibility of the EEOC's procedures and representation to eligible aggrieved individuals on the basis of their national origin.

In conclusion, we hope to continue working with the Commission on challenges facing immigrant and national origin minority employees. While we recognize some of the recommendations may be more difficult to adopt than others, we believe all are necessary to protect immigrant, migrant, and other vulnerable workers from harassment, trafficking and other discriminatory practices. To that end, we would like to reiterate our interest in organizing a public hearing on these issues. We believe a hearing will be beneficial to initiate a full discussion on these policy recommendations. You may contact Marsha Chien at The Legal Aid Society – Employment Law Center at 415-864-8848 and/or mchien@las-elc.org. We look forward to hearing from you at your earliest opportunity.

Kind regards,

American Civil Liberties Union
Asian Law Caucus
Asian Pacific American Legal Center
Council on American-Islamic Relations – Chicago
LatinoJustice PRLDEF
The Legal Aid Society – Employment Law Center
National Employment Law Project
The Sikh Coalition
Southern Poverty Law Center

cc: P. David Lopez