

South Carolina Human Affairs Commission

Technical Services and Training Division



Prevention Corner



An ounce of Prevention is Worth a Pound of Cure.

~Benjamin Franklin

September 2022

South Carolina
Human Affairs Commission
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www.schac.sc.gov

The South Carolina Human Affairs Commission strives to alleviate problems of discrimination through the enforcement of the SC Human Affairs Law (including the SC Pregnancy Accommodations Act), the SC Fair Housing Law, the SC Equal Enjoyment and Privileges to Public Accommodations Law and the SC Lactation Support Act.

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National Origin Discrimination

National origin discrimination involves treating people (applicants or employees) 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 (even if they are not).

Title VII prohibits employer actions that have the purpose or effect of discriminating against persons because of their real or perceived national origin.

Equal employment opportunity cannot be denied because of:

- **Association:** Marriage or association with persons of a national origin group
- **Affiliation:** Membership or association with specific ethnic promotion groups
- **Perception:** The belief that an individual (or ancestors) is from one or more particular countries or belongs to a particular national origin group.

Can my employer ask about my national origin?

Federal or state laws do not prohibit employers from asking about your national origin. However, because such questions may indicate possible intent to discriminate based on national origin, it is recommended that employers ask about national origin only for a lawful purpose.

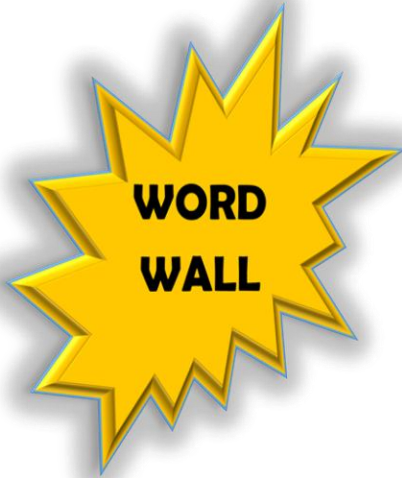
Example: Your employer may need information about your ethnicity for affirmative action purposes or to comply with government laws that require the reporting of ethnicity information.

It is also discriminatory for employers to take an employment action in response to the discriminatory preferences of others, such as customers or coworkers.

Source: U.S. Equal Employment Opportunity Commission; U.S. Department of Labor;
<https://schac.sc.gov/employment-discrimination/prohibited-practices-discrimination-types/national-origin-discrimination>

(800) 521-0725, Relay 711

803-737-7800 or <https://www.schac.sc.gov/>



Basis

1. **According to; based on**
Source: merriam-webster.com
2. **A basis is the “reason” alleged for discrimination. An EEO complainant must assert basis, or reason when bringing forward a complaint.**
Source: www.archives.gov/eo/terminology

CM-604 Theories of Employment Discrimination U.S. EEOC

Disparate Treatment

Disparate treatment occurs when an employer treats some individuals less favorably than other similarly situated individuals because of their race, color, religion, sex, or national origin.

Discrimination within the meaning of Title VII of the Civil Rights Act of 1964 can take many forms. It can occur when an employer or other person **intentionally excludes** individuals from an employment opportunity on the basis of race, color, religion, sex, or national origin.

Whenever similarly situated individuals of a different race, color, sex, religion, or national origin group are accorded disparate treatment in the context of a similar employment situation, it is reasonable to infer, absent other evidence, that discrimination has occurred. The presence of a discriminatory motive can be inferred from the fact that there were differences in treatment.

Example:

Giving an employee a nickname because his/her name is too ethnic to pronounce, could be evidence of discrimination or harassment.

Disparate Impact

Disparate impact is often referred to as **unintentional discrimination**, whereas disparate treatment is intentional.

According to the Society for Human Resource Management (SHRM), disparate impact occurs when policies, practices, rules, or other systems that appear to be neutral result in a disproportionate impact on a protected group.

Example:

An employer has a policy that it will only hire individuals who are a certain minimum height or who can lift a certain minimum weight. Courts have found height restrictions disproportionately impact women and certain races.

Source: U.S. Equal Employment Opportunity Commission; www.shrm.org

U. S. Equal Employment Opportunity Commission News & Notes

Press Release

06-17-2022

EEOC Sues Staffing Company for National Origin Discrimination

ResourceMFG Rejected Naturalized Citizen Because She Was Born In Germany, Federal Agency Charges.

ST. LOUIS – ResourceMFG, a national manufacturing specialty staffing company, violated federal law when it failed to refer an Oklahoma job applicant for employment because she was not born in the United States, the U.S. Equal Employment Opportunity Commission (EEOC) charged in a recently filed lawsuit.

- According to the EEOC's suit, a German-born naturalized U.S. citizen interviewed with a ResourceMFG recruiter in February 2020 and was offered a position at XPO Logistics, a federal government contractor, that required U.S. citizenship.
- ResourceMFG told the applicant that in order to complete the hiring process, she was required to present a United States birth certificate.
- The applicant explained that she did not have a U.S. birth certificate, but she could provide documents proving her U.S. citizenship.
- ResourceMFG terminated the onboarding process and told the applicant she could not be hired because she was not born in the United States, the EEOC said.

National origin discrimination – which occurs when an employer treats applicants or employees unfavorably because they are from a particular country or part of the world, or because of their ethnicity or accent – violates Title VII of the Civil Rights Act of 1964.



The EEOC filed suit in U.S. District Court for the Western District of Oklahoma (Equal Employment Opportunity Commission v. Employbridge of Dallas, Inc. d/b/a ResourceMFG, Civil Action No. CIV-22-499-C) after first attempting to reach a pre-litigation settlement via its conciliation process. The EEOC seeks back pay, compensatory, and punitive damages for Hicks, as well as injunctive relief to prevent future discrimination.

Read the entire article at <https://www.eeoc.gov/newsroom/eeoc-sues-staffing-company-national-origin-discrimination>

Source: U.S Equal Employment Opportunity Commission



Answers to your questions about SC Pregnancy Discrimination and SC Lactation Support Laws.

Can I be denied a promotion because of my pregnancy and national origin?

Pregnancy discrimination in the workplace occurs when an employer discriminates on the basis of pregnancy, childbirth, or related medical condition.

The Pregnancy Discrimination Act (PDA) and the SC Pregnancy Accommodations Act forbids discrimination based on pregnancy when it comes to any aspect of employment, including hiring, firing, pay, job assignments, promotions, layoff, training, fringe benefits, such as leave and health insurance, and any other term or condition of employment.



**Press Release
06-17-2022**

Bayview Nonprofit Sued for National Origin and Pregnancy Discrimination

Samoan Counselor Terminated Weeks After Giving Birth

SAN FRANCISCO — A Bayview Hunters Point nonprofit violated federal law when it failed to promote and instead terminated an employee because of her Samoan national origin and her pregnancy, the U.S. Equal Employment Opportunity Commission (EEOC) charged in a lawsuit filed today.

A Samoan was hired by the United Council of Human Services (UCHS) in May 2002 as a Peer Advisor. She worked the graveyard shift counseling walk-in clients at its 24-hour Drop-In Center. In 2007, just days prior to beginning maternity leave, she learned that a co-worker had been promoted to Supervisory Peer Advisor.

According to the EEOC's investigation, the new supervisor, who is male and not Samoan, had fewer qualifications and less experience than the Samoan employee who had a record of five years of excellent service. The Samoan employee started her maternity leave on April 27, 2007, one day before her baby was born, and attempted to return to work on June 4. She was turned away and later informed that her job was eliminated due to funding cuts. However, EEOC found that UCHS had hired a male, also not Samoan, to replace the Samoan employee on the Peer Advisor graveyard shift during her maternity leave, who continued to work there after she was terminated.

Title VII of the Civil Rights Act of 1964 prohibits employers from discriminating against employees on the bases of national origin and gender. According to the Pregnancy Discrimination Act, sex discrimination includes discrimination on the basis of pregnancy, childbirth, or any related medical conditions affected by pregnancy.

Read the entire article at <https://www.eeoc.gov/newsroom/bayview-nonprofit-sued-national-origin-and-pregnancy-discrimination>

Source: U.S Equal Opportunity Commission; SC Human Affairs Commission

PREVENTION CORNER

Prevent National Origin Discrimination

Employers have the responsibility to prevent discrimination and retaliation from happening in the workplace. Developing a work environment that is respectful, is possible with employee training and policies that are enforced.

- 1. Employers should have a detailed discrimination policy that specifically prohibits national origin discrimination. The policy should include information on reporting and resolution procedures.**
- 2. Refrain from isolating employees based on their national origin. An example: do not assign people lower-paying jobs based on their national origin.**
- 3. Make sure the employer's harassment policy prohibits harassment based on national origin.**
- 4. During interviews, do not ask candidates about their national origin, ethnic heritage, ancestry, or accent.**

Source: U.S Equal Opportunity Commission; SC Human Affairs Commission

**If you feel like you have experienced discrimination,
contact us for help.**

**South Carolina Human Affairs Commission
(800) 521-0725, Relay 711 or 803-737-7800**

<https://www.schac.sc.gov/>

**The mission of the South Carolina Human Affairs Commission is to
Prevent and Eliminate Unlawful Discrimination in Employment, Housing,
and Public Accommodations.**



Full Time Positions Available

Agency Head

Administrative Coordinator II (*Human Resources*)

Program Coordinator I (*Intake Officer*)

Program Coordinator I (*EEO Investigator*)

[https://www.governmentjobs.com/careers/sc?department\[0\]=State%20Human%20Affairs%20Commission&sort=PositionTitle%7CAscending](https://www.governmentjobs.com/careers/sc?department[0]=State%20Human%20Affairs%20Commission&sort=PositionTitle%7CAscending)