



## Employer Fact Sheet

# Understanding the Immigration and Nationality Act's Anti-Discrimination Provision

**This fact sheet explains prohibited discrimination under the Immigration and Nationality Act's anti-discrimination provision.**

This law prohibits employers from discriminating against workers who have permission to work in the United States based on their citizenship status or national origin. This law is found at [8 U.S.C. § 1324b](#).



## What's in this Document

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## Contact

For questions about this fact sheet, call the Civil Rights Division's **Immigrant and Employee Rights Section** at

**1-800-255-7688**

### Citizenship Status Discrimination

**Employers generally can't treat people differently in hiring, firing, recruitment, or referral for a fee because of their citizenship status.**

Citizenship status includes a person's current or prior immigration status.

U.S. citizens, U.S. nationals, workers granted asylum or refugee status, and recent lawful permanent residents are protected from citizenship status discrimination under the Immigration and Nationality Act.

**For example, an employer cannot have a policy of only hiring U.S. citizens unless a law, regulation, government contract, or executive order requires the employer to limit the specific position to U.S. citizens.**

An employer that believes a certain position requires it to hire someone with a specific citizenship or immigration status should carefully review the legal support for the requirement. This situation is rare and does not apply to most jobs.

### National Origin Discrimination

**Employers are not allowed to treat people differently in hiring, firing, recruitment, or referral for a fee because of their place of birth, first language, accent, or other national origin indicator.**

The Immigration and Nationality Act prohibits national origin discrimination against any worker with permission to work in the United States.

Another law, Title VII of the Civil Rights Act, also prohibits national origin discrimination against all workers, regardless of their work-authorization status.

The Civil Rights Division's Immigrant and Employee Rights Section (IER) investigates national origin discrimination claims against employers with four to 14 employees. The Equal Employment Opportunity Commission (EEOC) investigates national origin discrimination claims against employers with 15 or more employees.

### Unfair Documentary Practices

**Employers are not allowed to request more or different documents than are required by law to verify a worker's**

**permission to work in the United States. Employers must not reject reasonably genuine-looking documents or specify certain documents over others based on a worker's citizenship, immigration status, or national origin.**

This type of discrimination typically occurs in the Form I-9 and E-Verify processes, which are discussed in more detail below.

### Form I-9 Process

Employers verify workers' permission to work in the United States by completing the Form I-9. During the Form I-9 process, a worker must show documentation establishing their identity and permission to work in the United States.

You can get more information on Form I-9 document requirements by contacting IER or U.S. Citizenship and Immigration Services (USCIS).

**Workers have the right to choose which acceptable documentation to show during this process.**

An employer can't, based on a worker's citizenship, immigration status, or national origin, request more or different documents than are required to establish a worker's identity and permission to work in the United States.

Employers also can't require a worker to show specific documents or reject documents that appear to be reasonably genuine and relate to the worker, based on citizenship status, immigration status, or national origin.

For example, many workers—including non-U.S. citizens—have a **driver's license** and **unrestricted Social Security card** and may choose to present those documents. In that situation, employers can't ask for other documents to verify work authorization.

Similarly, employers can't require non-U.S. citizens to produce "**green cards**" or U.S. citizens who appear "foreign" to produce **birth certificates** or **U.S. passports**.

### E-Verify

[E-Verify](#) is a U.S. Department of Homeland Security program that verifies a worker's permission to work electronically, using information from the Form I-9.

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Sometimes, E-Verify does not verify a worker's permission to work right away and issues a **Tentative Nonconfirmation** (also known as a **mismatch**).

**If a worker decides to take action to resolve a mismatch, E-Verify prohibits employers from firing, delaying the employment of, or taking any other negative action against the worker because of the pending mismatch.**

More information is in the E-Verify [Memorandum of Understanding](#).

In addition, an employer that rejects a worker's documentation or asks a worker who gets a mismatch to provide additional documentation based on the worker's citizenship, immigration status, or national origin might be committing unlawful discrimination.

### Retaliation/Intimidation

People who file charges with IER, cooperate with an IER investigation, oppose what they reasonably believe are violations of the law that IER enforces, or otherwise assert their own or others' rights under the Immigration and Nationality Act's anti-discrimination provision are **protected from intimidation, threats, coercion, and retaliation**.

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## Contact

### Civil Rights Division, Immigrant and Employee Rights Section (IER)



- Call the Worker Hotline at **1-800-255-7688**
- For people with hearing disabilities **1-800-237-2515**
- Calls can be anonymous.
- Free language services are available.



- To learn more, visit **[justice.gov/ier](https://www.justice.gov/ier)**