

## Gavel to Gavel: The value of translation

By: Stephanie Duran Guest Columnist July 11, 2018



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If your company has limited English proficient individuals in its workforce and you aren't offering training programs in non-English languages, your company may be exposed to a discrimination claim. Because language is an integral characteristic of someone's nationality, discrimination based on language constitutes national origin discrimination.

LEP discrimination can take many forms. For example, the Equal Employment Opportunity Commission filed a lawsuit against the national retail grocery chain Albertsons alleging it subjected certain employees to a hostile work environment and harassment due to implementation of an English-only policy, which prohibited Spanish-speaking employees from speaking Spanish around non-Spanish-speaking employees and customers.

What do you need to do for your employees?

**Access to information:** Most employers know that having clear policies in place, and implementing them consistently, can be the best defense to employment-related harassment or discrimination claims. Though federal law does not require employers to provide LEP employees with direct translations of employment policies, it may be in an employer's best interest to do so. In at least one case, failure to both provide translated policies and training in Spanish factored into a court's determination that an employer had not exercised reasonable care.

**Access to relief:** An employer must also provide a way for LEP employees to exercise their rights under the policy – in their spoken language. Hiring bilingual managers isn't a requirement but making translation services available is essential. If your employees cannot complain in the language that they speak, then your policy cannot be effective.

**A note about English-only policies:** If your company needs an English-only policy, drafting and implementation should be handled with great care. While the EEOC recognizes that an employer must be able to communicate with its employees, it will presume that an EOP that applies at all times and in all places in the workplace violates Title VII. However, an English-only policy may be compliant if it only applies at certain times and is justified by a business necessity. For example, requiring employees to use English in emergency situations.

**Treatment during the hiring process:** It is crucial for an employer not to treat any applicant differently based on his or her birth, country of origin, ancestry, native language, or accent. Having onboarding processes and policies that apply uniformly to all new or potential hires is essential.

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