

## An Employer Can Require Only English be Spoken in Very Limited Circumstances

01/18/24

The following information has been published by the [U.S. Department of Labor](#):

In most circumstances, employees' communications in languages other than English should not be limited to only those official functions for which they were hired. **Employees' right to speak in languages other than English** may only be curtailed in certain narrowly defined situations.

EEOC Regulation 29 C.F.R. § 1606.7(a) provides that a rule requiring employees to speak only English *at all times* in the workplace is a burdensome term and condition of employment. **Such a rule is presumed to violate Title VII of the Civil Rights Act of 1964. Therefore, a speak-English-only rule that applies to casual conversations between employees on break or not performing a job duty would be unlawful.**

A workplace English-only rule that is applied only at certain times may be adopted under very limited circumstances that are justified by business necessity, as stated in 29 C.F.R. § 1606.7(b). Such a rule must be narrowly tailored to address the business necessity. Situations in which business necessity would justify an English-only rule include:

- For communications with customers, coworkers, or supervisors who only speak English
- In emergencies or other situations in which employees must speak a common language to promote safety
  - For example: A rule requiring employees to speak only English both when performing their work in specific areas of the workplace that might contain flammable chemicals or other potentially dangerous equipment and in the event of an emergency does not violate Title VII because it is narrowly tailored to cover necessary safety requirements.
- For cooperative work assignments in which the English-only rule is needed to promote efficiency
  - For example: A rule requiring investigators (some of whom speak only English) to speak only English when working as a team to compile a report or prepare a case for litigation does not violate Title VII because it is narrowly tailored to promote business efficiency.
- To enable a supervisor who only speaks English to monitor the performance of an employee whose job duties require communication in English with coworkers or customers
  - For example: A rule requiring employees to speak only English with English-speaking co-workers and customers when a supervisor is present to monitor their work performance would be narrowly tailored to promote efficiency of business operations. As long as the rule does not apply to casual conversations between employees when they are not performing job duties, it would not violate Title VII.

**Takeaway:** An employer should only consider an English Only requirement in very limited circumstances.

### Attorney

- Tracy Armstrong

## **Practice**

- Employment Law