



EEOC Files Anti-American Discrimination Lawsuit Against Construction Contractor

The Equal Employment Opportunity Commission recently sued a New Mexico construction services company, alleging that it allowed anti-American harassment at its jobsites.

The EEOC alleges the harassment included anti-American slurs by Mexican coworkers and ridicule for not speaking Spanish fluently. When one employee complained to his direct supervisor, nothing was done. After he escalated to a different supervisor, he was fired for going over his supervisor's head.

National origin discrimination claims are nothing new, but they traditionally involve employees from other countries (e.g., discrimination against those from Venezuela). Using this type of claim for anti-American discrimination is unusual but aligns with the Trump administration's America First focus. Employers should watch for this type of claim just as they would for other discrimination claims and must act whenever employees allege differential treatment based on any protected characteristic.

Employers seeking to avoid complaints such as this should keep the following in mind:

- **Do not ignore harassment complaints.** Supervisors must take reports seriously and act promptly. Establish a clear reporting protocol so every complaint is documented, assigned to a designated HR representative or compliance officer, and investigated within a defined timeframe. Protect employees who report harassment from retaliation, including termination, demotion, or reassignment.
- **Watch for hostile work environment risks on every jobsite.** Slurs and exclusionary behavior based on any protected characteristic (including race, sex, national origin, age over 40, veteran status, and sexual orientation) can create a hostile work environment under federal law. Contractors must train all employees, especially supervisors, on anti-harassment standards and enforce them consistently. Training should be conducted at least annually and upon onboarding and should include real-world scenarios relevant to construction sites, such as language-based exclusion and national origin slurs. Post anti-harassment policies in visible locations at every jobsite, in English and any other language commonly spoken by the workforce.

- **Do not assume discrimination only runs one direction.** Discrimination protections apply both ways: they protect Caucasians and racial minorities, and Christians as well as other religious groups. In the current environment, employers should be especially vigilant with respect to crews or worksites dominated by one demographic group, as that dynamic could lead to preferential treatment for in-group employees at the expense of others. When a crew is predominantly composed of one national origin group, assign a bilingual supervisor or liaison to monitor interactions and ensure equitable treatment.
- **Respond swiftly and document everything.** When a harassment complaint is received, employers should immediately separate the complainant from the alleged harasser when practicable, launch a prompt and thorough investigation, and document every step. Failure to act swiftly, as the EEOC's case against the New Mexico contractor illustrates, can transform a single complaint into company-wide liability.
- **Review and strengthen anti-harassment policies.** Employers should audit existing policies to ensure they explicitly address discrimination in all directions, including harassment of American-born employees. Policies should define prohibited conduct, outline the complaint procedure, identify multiple reporting channels (so employees need not report only to their direct supervisor), and specify consequences for violations. Distribute updated policies to all employees and obtain signed acknowledgments

For further information on these developments, please contact [**Tony Stergio**](#).