

## NEW RULEMAKING

# EEOC TO TARGET ‘ANTI-AMERICAN’ BIAS IN HIRING



**B**USINESSES THAT regularly hire foreign workers may come under increased scrutiny from the Equal Employment Opportunity Commission after it announced a new enforcement focus on “anti-American bias” in employment decisions.

The agency’s acting chair, Andrea Lucas, said employers who prefer non-American workers over U.S. citizens could face legal consequences under federal anti-discrimination laws.

The enforcement push would also focus on “staffing agencies and other agents that unlawfully comply with client companies’ illegal preferences against American workers,” the EEOC said in announcing the move.

The EEOC’s enforcement shift is part of the Trump administration’s broader policy direction on immigration and labor protections. Specifically, the agency is pledging to crack down on employers who allegedly abuse visa programs or systematically favor immigrant labor over American nationals based on assumptions about cost, compliance or work ethic.

### How the EEOC’s new focus works

At the heart of the EEOC’s initiative is Title VII of the Civil Rights Act of 1964, which prohibits employment discrimination based on national origin. While this law has historically been used to protect immigrants and ethnic minorities, the EEOC says that it also protects American workers from discrimination.

The agency argues that favoring foreign workers over American applicants — whether due to perceptions of lower labor costs, ease of exploitation or presumed work ethic — violates national origin discrimination laws.

Additionally, job postings or internal policies that show a pattern of preference for visa holders or specific national groups may be subject to investigation.

### Industries most at risk

- Construction
- Agriculture
- Technology and engineering fields that sponsor H-1B visas
- Hospitality
- Health care

### Steps Employers Can Take

- Conduct an audit of your hiring and employment policies, especially around visa sponsorship and national origin.
- Review job advertisements and application procedures to ensure they are neutral and inclusive of all national origins, including American citizens.
- Train HR personnel and hiring managers on the legal requirements of Title VII and the risks of implicit bias in light of the EEOC’s new emphasis.
- Standardize pay and benefits structures to avoid disparities based on nationality or visa status.
- Document decision-making processes related to hiring, promotion and compensation to establish nondiscriminatory intent.
- Ensure that staffing agencies and third-party recruiters working on your behalf are not using hiring criteria that is biased against American citizens.

### The takeaway

As enforcement efforts increase, companies that rely on foreign workers must balance workforce strategies with compliance.

The EEOC’s message is clear: anti-American bias is now a priority, and businesses must be prepared to demonstrate fair and lawful employment practices. ❖