

OSC Charge Referral Checklist

The anti-discrimination provision of the Immigration and Nationality Act, codified at 8 U.S.C. § 1324b, prohibits discrimination by any person or entity based on citizenship status, immigration status or national origin in the hiring, termination, recruitment/referral, and employment eligibility verification process. The provision also prohibits intimidation and retaliation against any person for asserting his/her rights under 8 U.S.C. § 1324b.

Your agency and the U.S. Department of Justice, Office of Special Counsel for Immigration-Related Unfair Employment Practices (OSC) have entered into an agreement permitting the referral, in whole or in part, of certain employment-related discrimination charges received by your agency to the Office of Special Counsel for investigation.

This referral checklist is provided to assist you in identifying charges for possible referral to OSC. If the Charging Party has already filed a charge with OSC, please inform us of the parallel investigation by your agency, but do not refer the charge.

| REFERRAL CRITERIA | No | Yes |
|--|----|-----|
| Does the alleged discrimination relate to the actions of an employer or recruiter/referrer for a fee (e.g. a staffing agency)? | | |
| Did the alleged discrimination occur in connection with ANY of the following: <input type="checkbox"/> Hiring, firing (incl. constructive discharge) or recruitment/referral; OR <input type="checkbox"/> Actions to verify or investigate an individual's work authorization (e.g., Form I-9, E-Verify, background check, etc.), including the presentation or rejection of documents to prove work authorization | | |
| Were the alleged discriminatory actions potentially taken on the basis of the Charging Party's citizenship/immigration status or national origin or in retaliation against the Charging Party? | | |
| Did the employer or recruiter/referrer for a fee employ 4 or more employees on the date of the alleged discrimination?* | | |
| Was the charge filed with your agency within 180 days of the last act of alleged discrimination, or is the alleged discrimination potentially continuing? | | |

If you believe all of the above criteria *may* be met, this charge should be considered for referral to OSC. To refer the charge, please review OSC's referral procedures at www.justice.gov/crt/about/osc/pdf/Instructions.pdf and consult your agency's policies and procedures.

* Certain types of national origin charges should only be referred if the employer or recruiter/referrer employs fewer than 15 employees. To speak with an OSC representative about whether the charge should be referred, call OSC at **(202) 616-5594** (M-F, 9 am – 5 pm Eastern) and ask to speak with the Referral Duty Attorney. Questions about a referral may also be directed to OSCTReferral@usdoj.gov.