



U.S. DEPARTMENT OF JUSTICE
IMMIGRANT & EMPLOYEE RIGHTS SECTION
CIVIL RIGHTS DIVISION

EMPLOYERS CANNOT PREFER TEMPORARY VISA HOLDERS OVER U.S. WORKERS

Under federal law, employers generally cannot make hiring, firing, or recruitment or referral decisions based on a worker's citizenship or immigration status. U.S. workers who believe they have been discriminated against based on their citizenship or immigration status should call the Immigrant and Employee Rights Section (IER) of the United States Department of Justice's Civil Rights Division. IER enforces the anti-discrimination provision of the Immigration and Nationality Act (INA), found at 8 U.S.C. § 1324b. The regulations for this law are at 28 C.F.R. Part 44.

IER investigates employers that deny employment opportunities to U.S. workers because they prefer to hire temporary visa workers.

Consider calling IER if an employer or recruiter:

1. Does not consider or hire U.S. workers for jobs that they are qualified and available for.

Example: A roofing company ignores U.S. workers with relevant experience and instead hires H-2B visa workers.

2. Fires U.S. workers to hire temporary visa workers it prefers instead.

Example: A grower fires U.S. workers and immediately replaces them with H-2A visa workers.

3. Includes preferences for temporary visa holders in job postings.

Example: A technology company includes "H-1B preferred" in a job advertisement.

These are examples of possible citizenship status discrimination, which the INA prohibits under 8 U.S.C. § 1324b(a)(1). This law has some exceptions that may allow or require employers to make hiring decisions based on citizenship status in limited situations. You can find more information about these exceptions by contacting IER and at 8 U.S.C. § 1324b(a)(2), (4).

Immigrant and Employee Rights Section

1-800-255-7688

www.justice.gov/ier

Call if you believe you have been a victim of an unlawful preference for temporary visa holders.

Calls can be anonymous and language services are available.

TTY 1-800-237-2515

This flyer is not a final agency action, has no legally binding effect, and may be rescinded or modified in the Department's complete discretion, in accordance with applicable laws. This flyer does not establish legally enforceable responsibilities beyond what is required by the terms of the applicable statute, regulations, or binding judicial precedent.