

Ask The Insider: Can You Make Bilingual Workers Speak English in the Interest of Safety?



QUESTION

Some of our Hispanic workers are bilingual but refuse to speak English even when doing dangerous jobs with co-workers who don't speak Spanish. Can we discipline them'

ANSWER

Probably but you need to be very careful.

EXPLANATION

Requiring (or banning) use of any particular language in the workplace is ethnicity/nationality discrimination banned by human rights laws. But otherwise discriminatory policies are justifiable if they're a bona fide occupational requirement (BFOR)'that's why, for example, you can refuse to hire the visually impaired as drivers.

To prove that requiring bilingual workers to speak English is a BFOR, you must be able to show that: i. it serves a compelling safety purpose; ii. it's necessary to accomplish the purpose; and iii. there are no less discriminatory alternatives. Example: A supervisor in charge of a safety-sensitive operation requiring verbal communication like confined space entry would have to speak English if that's the only language spoken by all crew members entering the space.

Practical Advice: Make sure your rules meet these criteria. If so, explain the situation to the bilingual workers so they understand why they must speak

English when performing dangerous jobs with non-Spanish speaking co-workers. Keep written documentation of all this. Then, if they still won't speak English, you should have valid grounds for discipline. What you MUST NOT do is sacrifice anybody's safety to accommodate workers' language preferences.