



Protecting Immigrants from Unfair Employment Practices

Background on the Office of Chief Administrative Hearing Officer

The Office of the Chief Administrative Hearing Officer (OCAHO) oversees judges who handle cases related to immigration laws and employment. These cases involve issues like employing unauthorized immigrants, unfair employment practices, and document fraud. Complaints can be filed by the government or private individuals. Essentially, OCAHO ensures that immigration-related employment laws are enforced fairly and appropriately.

It has authority over issues such as:

- 1) Employer sanctions:
The knowing hire, recruitment, or referral for a fee of people unauthorized to work in the United States, or the continued employment of people unauthorized to work in the United States, failure to comply with employment eligibility verification requirements, and requiring indemnity bonds from employees in violation of section 274A of the Immigration and Nationality Act;
- 2) Immigration-related unfair employment practices, such as:
 - Discrimination in hiring or firing or retaliation against an individual because of their national origin or citizenship status.
 - Requiring specific documents or requiring extra documents to demonstrate a person's national origin or citizenship.
 - Discouraging applicants from applying for jobs based on their national origin or citizenship.
- 3) Immigration-related document fraud.

Recent Activity

In the past five years, the Department of Justice (DOJ) has settled over 100 cases involving unfair immigration-related employment practices. The DOJ settled cases with over 50 employers involving immigration-related employment practices in 2022. Published fines have ranged from just over \$4,000 to \$300,000, excluding back pay to the affected workers. The employers ranged from grocery stores and bakeries to IT companies, banks, insurance companies, religious institutions, retailers, and consulting companies. It ranged from small, local employers to national brands and well-known institutions including Capital One Bank, Microsoft, KPMG, LLP, and Edward Jones Investments.

Twenty employers paid over \$1,100,000 in fines in 2022 because they posted positions on online college placement offices' job recruitment platforms that restricted applicants to United States citizens only.

Recommendation

Investigating immigration-related unfair employment practices is clearly a major focus of the DOJ. All industries are potential targets. The best defense against these types of investigations is to have an attorney review your employment practices and recruitment methods to ensure compliance with applicable laws.

If you would like more information on this issue, please contact your attorney or find an immigration attorney via <https://www.ailalawyer.org>.