

## Immigration Discrimination

### Missouri Commission on Human Rights

#### Training Institute

"Learn from the Experts"

MCHR

"Give me your tired your poor,  
Your huddled masses yearning to breathe  
free..."

- From the "New Colossus" by Emma Lazarus-1883
- Inscribed on a bronze plaque at the base of the Statue of Liberty.



MCHR

## Objectives

- Learn what is legal immigration;
- Learn what is illegal immigration;
- Learn what national origin/ancestry discrimination is under the Missouri Human Rights Act;
- Immigration Reform & Control Act prohibits discrimination due to citizenship status of immigrants here legally.
- Get guidance regarding the many issues involving national origin/ancestry discrimination.

## Immigration: It's.....

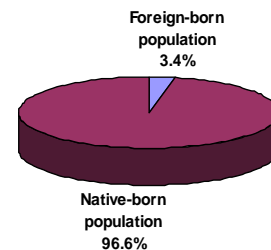
- Legal and Illegal
- In the News
- Controversial
- Contentious
- Confusing



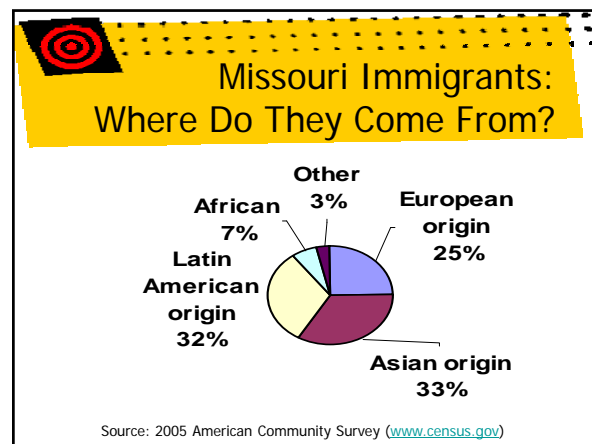
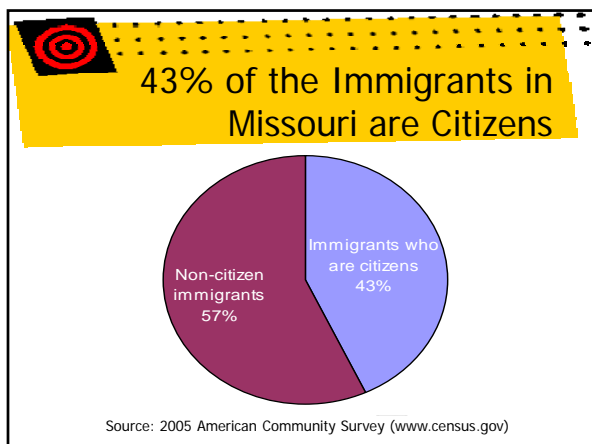
## Types of U.S. Residents

- Natural Born Citizens: 250,314,015 (88.9%)  
*Includes those born in U.S. territory and abroad to a U.S. citizen parent*
- Naturalized Citizens: 12,542,625 (4.5%)  
*Includes foreign born conferred U.S. citizenship after birth*
- Non-Citizens: 18,565,265 (6.6%)  
*Includes people born outside the U.S. who have not been conferred U.S. citizenship, such as lawful permanent residents, students, refugees, and documented and undocumented workers.*

## Only 3.4% Of Missouri's Population Is Foreign-born



Source: 2005 American Community Survey ([www.census.gov](http://www.census.gov))



### National Origin Discrimination

- In FY06 the EEOC received 8,327 complaints alleging National Origin discrimination. In FY07 EEOC received 9693 complaints alleging National Origin discrimination.
- In FY 06 monetary benefits for complainants totaled \$21.2 million, by FY07 it increased to \$22.8 million.
- In FY 2007 3.6% of MCHR's complaints alleged National Origin discrimination.

### Anti-Illegal Immigrant Sentiment

- There are many people who have very negative feelings towards undocumented workers.
- That can lead to harassment and discrimination against American citizens- those born here or in another country- and foreign workers here legally.

### The Missouri Human Rights Act...

- Prohibits discrimination because of someone's national origin or ancestry;
- Does not prohibit discrimination due to citizenship status.

### National Origin/Ancstry Discrimination is...

- Treating someone less favorably because:
  - He or she comes from a particular place;
  - His or her ethnicity or accent; or
  - They appear to have a particular ethnic background.

## National Origin

- National origin is defined as an individual's place of origin;
- The place is usually a country or former country;
- But it can be a place closely associated with a group of people who share a common language, culture and/or other social characteristics.

## Ancestry

- Ancestry is the place of origin of an individual's ancestors when that individual was born in the United States, or that individual has the physical, cultural or linguistic characteristics of a national origin group but was born in the United States.

## What employment decisions are covered?

- Hiring
- Wages and Benefits
- Work Assignments
- Discipline
- Layoff
- Discharge
- All terms and conditions of employment.



## Harassment Is Prohibited


- Ethnic slurs or other offensive conduct regarding an individual's national origin that create an offensive or hostile work environment.
- Employers are required to take steps to prevent and correct harassment, like having an anti-harassment policy, disciplining violators and training employees on what to do.

## Citizenship

- Discrimination based on citizenship is not prohibited by the Human Rights Act. But...
- Citizenship-based policies can violate the law when used to discriminate on the basis of national origin or ancestry.
- IRCA prohibits employers from discriminating against American citizens and certain classes of foreign nationals authorized to work in the USA due to their citizenship status.


## Citizenship-Based Policies...

- May not be adopted for discriminatory reasons and
- Must be enforced even-handedly.




## Discrimination Based on Accent

- Distinctions based on an employee's accent are permissible only when the accent materially interferes with job performance.
- Does the ability to communicate materially relate to the ability to perform the job?
- Does the individual's accent interfere with that necessary ability to communicate?




## English-Only Rules

- Requiring employees to speak only English in the workplace at all times will almost never be justified by business necessity.
- Such a rule, if it applies only at certain times, is permissible if job-related and consistent with business necessity.




## Unequal Treatment

- Employers should guard against treating persons with national origin/ancestry characteristics differently than they treat other employees or applicants.




## Now You Know...

- The difference between National Origin and Ancestry;
- Legal and Illegal Immigrant Status and
- How all of these things may result in complaints of discrimination being filed.



## Workforce Diversity

- Workplaces that are diverse and accepting will be better able to take advantage of all of the talent, drive and expertise that is available in Missouri's diverse workforce.



## Sample Policy

Company "X" is an equal opportunity employer. The goal of the department is to attract, retain, and promote qualified employees. Employment decisions, including those related to recruitment advertising, recruitment, compensation, training, promotion, and/or termination of employment, shall be made on the basis of valid, job-related criteria.



## Sample Policy (Continued)

- Company "X" shall not unlawfully discriminate against any employee or applicant for employment on the basis of age, race, color, national origin, sex, religion, veterans' status, disability, or any other reason prohibited by law. Discrimination will not be tolerated. Employees that violate this policy will be subject to disciplinary action, up to and including immediate termination of employment. Any perceived violation of this policy should be reported to the Human Relations Officer immediately.