



U.S. Department of Justice
Civil Rights Division

Office of Special Counsel for Immigration-Related
Unfair Employment Practices - NYA
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August 6, 2013

Jim Cohen
ALA, LEED, AP
SBLM Architects
11430 N Kendall Drive
Suite 310
Miami, FL 33176

Dear Mr. Cohen:

Thank you for contacting the Office of Special Counsel for Immigration-Related Unfair Employment Practices ("OSC"). This is in response to your email dated June 24, 2013. In your email, you asked whether it "is discriminatory in hiring practice to require a minimum of a Bachelor's degree in Architecture from a university/college in the United States as opposed to Architecture Degree from any international college."

OSC is responsible for enforcing the anti-discrimination provision of the Immigration and Nationality Act ("INA"), codified at 8 U.S.C. § 1324b. OSC investigates and resolves charges of discrimination with respect to hiring, firing, and recruitment or referral for a fee based on citizenship or immigration status, or based on national origin, as well as unfair documentary practices, and retaliation. More information on OSC can be found on our website, at www.justice.gov/crt/about/osc. Please note that OSC cannot provide an advisory opinion on any set of facts involving a particular individual or entity. However, we can provide some general guidelines regarding employer compliance with the anti-discrimination provision of the INA, and employer actions under that provision.

In *Dalila Kamal-Griffin v. Cahill Gordon & Reindel*, 3 OCAHO no. 568, 1641 (1993), an Administrative Law Judge held that a law firm did not discriminate on the basis of citizenship status in violation of the INA's anti-discrimination provision simply by requiring applicants for associate positions to have their primary legal education in a common law legal system. The Judge also mentioned that "the type of legal system in which an individual has obtained his or her primary legal education is a choice unrelated to citizenship status." *Id.* at 1675. The Judge also noted, however, that a facially neutral requirement, if purposefully adopted or selectively applied for the purpose of discriminating on the basis of citizenship status, could constitute a violation of the INA's anti-discrimination provision. *Id.* at 1672 (citing 52 Fed. Reg. 37, 402).

If you have further questions that pertain to the anti-discrimination provision of the INA, please contact OSC's employer hotline, 800-255-8155, or visit OSC's website at www.justice.gov/crt/about/osc.

We hope this information is helpful. Thank you for contacting OSC.

Sincerely,

A handwritten signature in black ink, appearing to read "Seema Nanda", followed by a long horizontal flourish.

Seema Nanda
Deputy Special Counsel