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The Risks Of Hiring Through Third-Party Recruitment Platforms

October 30, 2023 | [Labor And Employment](#),



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Employers are presented with many third-party recruitment options for maintaining and expanding workforces. Such efforts must comply with the anti-discrimination provision of the Immigration and Nationality Act (INA), which prohibits discrimination based on citizenship status and national origin in hiring, firing, or recruitment or referral for a fee; unfair documentary practices; and retaliation and intimidation.

The Georgia Institute of Technology is one of several institutions that has received [scrutiny](#) in recent years. According to the U.S. Department of Justice's investigation, the university violated the INA by maintaining a recruitment platform that required third-party employers to pay Georgia Tech in order to post advertisements regarding its career fairs that excluded certain non-U.S. citizens and limited job recruitment opportunities on the basis of citizenship status.

In September, the U.S. Department of Justice reached an agreement with Georgia Tech to settle claims related to the investigation. As a result, Georgia Tech was charged a \$500,000 fine, among other consequences. Georgia Tech will also be forced to change its recruiting practices and fix its policies in order to comply with INA regulations, according to the DOJ.

Georgia Tech was not the only one penalized for its actions. On June 16,

2022, the Department of Justice settled with 16 employers; on Sept. 21, 2022, the department settled with four employers; and on May 23, 2023, the department settled with another 10 employers. In total, since the filing of the discrimination complaint, the DOJ has issued over \$1.6 million in civil penalties to 30 separate employers who used Georgia Tech's recruiting platform as a job posting site.

In particular, the DOJ highlighted the intentional exclusion of non-U.S. citizens "who stand on equal footing with U.S. citizens in their ability to work, such as lawful permanent residents, refugees and those granted asylum by the federal government."

Given the ripple effect of recruitment through university employment sites, employers should carefully review the practices of recruitment platforms to ensure hiring is not in conflict with the INA's anti-discrimination provision.

This article was co-authored by Tieranny Cutler, independent contract attorney.