Even though our healthcare institution has a rule about speaking English on the job, supervisors and techs who come from the same country constantly exclude the other techs by speaking their native language. When we complained, we were told to learn their language. Outside of that, what are our other options?

Further, during a CAP inspection, these supervisors covered up many deficiencies because they spoke the same language as the inspectors. When we complained, we were told that it was “okay,” just so long as the lab passed. Again, what are the options in situations like this?

This presents a sticky problem. There has been a rise in lawsuits against employers who try to implement and enforce “English-only” policies in the workplace. These suits are based on the same laws that prevent workplace discrimination based on race or ethnic origin. They are often successful, grounded in the notion that preventing an individual from speaking his native language constitutes discrimination against the individual and his background. The broader the policy, the more likely it is to be found unacceptable. Employers who limit their English-only policies to business situations and for legitimate business communication reasons are more likely — though not certain — to be upheld.

Even so, there are legitimate business reasons for requiring a common language in a workplace, and that is, of course, to communicate important information, effectively, to all employees. If the fact that techs are speaking a different language is presenting a real, functional problem in the workplace — impeding the flow of information, for example — then a complaint is in order, and a policy requiring all work-related information to be communicated in a common language is more likely to survive a challenge.

If the only problem is a social one, and the conversations are occurring in the workplace but are not really job-related, then you probably have no real basis for complaint. In fact, enforcement of the policy might lead to a lawsuit against the institution, and awareness of that fact might be one reason that the policy is not being enforced.

The social division that comes from one group intentionally speaking a language that excludes others (a behavior that can be considered simply rude) is a problem, but probably not one that you can solve. Your only recourse might be to ignore it or — as you were advised — to learn a second language. In an increasingly diverse workplace, this would be an asset to future job searches. Employees who can translate from one language to another, including employees proficient in sign language, are becoming a highly valued commodity.

With respect to the CAP inspection problem, if you can document that deficiencies were covered up in the inspection, you may wish to bring them to the attention of the administrator in charge of the laboratory. Certainly, an inspection is one situation when a common language should always be spoken, because it is critical that all who participate understand the content of the conversations — in order to correct misinformation, supply additional data, and, in general, to provide an adequate assessment of the program. Beware, however, that attempting to challenge the outcome of the inspection without solid and irrefutable documentation will not only fail to solve the problem, it may well put your own employment in jeopardy and cause a further rift in the workplace. As unpleasant as it may be to contemplate, your situation is one in which you may just have to live with circumstances you find less than optimal or change your place of employment.

Lost in translation: foreign languages in the lab

Barbara Harty-Golder is a pathologist-attorney consultant in Chattanooga, TN. She maintains a law practice with a special interest in medical law. She writes and lectures extensively on healthcare law, risk management, and human resource management.