



Department of Budget and Management
Office of the Statewide Equal Employment
Opportunity Coordinator

August 2010

Issue II Volume III

EEO CONNECTION

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Coordinator's Message

HALF the year is gone and summer will be over soon. The Office of the Statewide Equal Employment Opportunity Coordinator (OSEEOC) has been busy conducting agency audits, investigating appeal and whistleblower cases, planning the EEO retreat, and many other duties too numerous to mention.

To those professionals that attended the 2010 retreat, thank you. Thanks also to the presenters and keynote speakers. Maryland's Attorney General, Douglas Gansler delivered an enlightening speech on his decision to recognize same sex marriages in the State of Maryland and spoke about his efforts to employ more minorities as Assistant Attorney Generals in his office. Maryland Administrative Law Judge, Georgia Brady, captured the audience's attention as she spoke about her role and responsibilities as an Administrative Law Judge. Department of Budget and Management's Secretary, T. Eloise Foster, "kept it real" as she spoke about the impact of the economy on our State. She noted that Maryland is in a better position than many other States to recover from this recession even stronger. Secretary Foster also noted that Maryland remains one of only eight States in the nation to maintain a Triple A bond rating, certified by all three credit rating agencies.

St. Mary's College President, Dr. Joseph Urgo and Vice President, Dr. Thomas Botzman made us feel "right at home" as they warmly welcomed us to their beautiful campus. I sincerely express my gratitude and appreciation to Dr. Urgo and Dr. Botzman for their wonderful hospitality and royal treatment.

The theme for the 2010 Statewide EEO Retreat was "WorkSmart." I chose this theme because during these tough economic times, we need to "WorkSmart" in our efforts to develop and enhance our skills and knowledge and rely on the many talented resources available within our State government.

Here are a few things we can all do to "WorkSmart"

- Build-up our team...share our knowledge, resources and talents with others.
- Be innovative and creative...times have changed and we need to change with it.
- Enjoy your work...it will make you feel good and be more productive.
- Improve communication and collaborate with others around you...form a better working relationship with the HR staff and management in your agency. Share and learn new ideas from each other.
- Be more organized...this

can help you get through your "to do list" quicker.

- Think deeply and plan well...this will help you make sound good decisions.
- Set clear achievable goals and monitor your goals regularly.
- Be knowledgeable about new technology for it changes all the time. We need to learn what's new. Computer programs are constantly being updated, there's facebook, twitter, ipads and iphones. People are clever in their quest to do wrong.
- Be flexible and responsive to change because change is constant.
- Be open and receptive to meet new challenges and opportunities.
- Training...training assist in compliance with EEO laws and policies; reduces exposure to employee complaints; ensures understanding of policies and practices; and demonstrates the employers good faith efforts to prevent and eliminate discriminatory and harassing behavior.

Read more about the retreat in our Community Awareness section. Also, in this issue of the *EEO Connection* you can read about a \$50,000 age discrimination settlement with the Community Col-

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lege of Baltimore County; learn why two staffing agencies have to pay \$35,000 to settle a disability discrimination lawsuit and find out how an Eastern Kentucky University faculty member failed to make a prima facie case of employment discrimination...

Glynis Watford
Statewide EEO Coordinator

A Message from Governor O'Malley



Dear Friends,

I was honored to join over 300 individuals with disabilities, families and friends, elected officials and other special guests at the 20th Anniversary Celebration of the Americans with Disabilities Act (ADA) at Camden Yards.

Twenty years ago, guided by the higher truth that we are all in this together, we achieved the justice of ADA— giving 54 million Americans a chance at a better future. In Maryland, we have continued to hold true to our belief that there is no such thing as a spare American. Together, we have dramatically decreased the wait lists for people needing disabilities services and provided new protections for student athletes with disabilities. Together, we have passed legislation that allows anyone who requests closed captioning in public places to receive it. And together, we have given Marylanders with disabilities the opportunity to go back to work.

I was honored to have been uplifted by so many inspirational individuals and reminded of the progress we've made both as a nation and as a State. But we still have more work to do. Today, our fight for equal opportunity for all Marylanders continues. Working together, we can continue to give Marylanders with disabilities the better future they deserve.

Martin O'Malley
Governor

Revised ADA Regulations

Implementing Title II and Title III

As part of the administration's commemoration of the 20th anniversary of the Americans with Disabilities Act (ADA), President Barack Obama announced the publication of two final rules that will amend the Department of Justice's regulations implementing Title II and Title III of the ADA. These two rules will be published concurrently in the Federal Register. Among the changes that will affect both rules are:

Adoption of the Revised Design Standards – New accessible design standards are established for a variety of recreational facilities, including swimming pools, playgrounds, golf courses, amusement rides, recreational boating facilities, exercise machines and equipment, miniature golf courses and fishing piers; as well as for such public facilities as courthouses, jails and prisons.

Element by Element Safe Harbor – The department is mitigating the cost of design changes by adopting a “safe harbor” under which existing building elements that already comply with the 1991 ADA Standards for Accessible Design would not be required to be brought into compliance with the 2010 Standards until the elements were subject to a planned alteration.

Ticketing – The department has added provisions that provide guidance on the sale of tickets for accessible seating, the sale of season tickets, the secondary ticket market, the hold and release of accessible seating to persons other than those who need accessible seating, ticket pricing, prevention of the fraudulent purchase of accessible seating and the ability to purchase multiple tickets when buying accessible seating.

Service Animals – The regulations define “service animal” as a dog that has been individually trained to do work or perform tasks for benefit of an individual with a disability.

Wheelchairs and Other Power-Driven Mobility Devices – The amended rules provide a two-tiered approach under which wheelchairs and scooters must be permitted in all areas open to pedestrian use.

Timeshares – The Title III regulation also makes clear that timeshare and condominium properties that operate like hotels are subject to title III, providing guidance about the factors that must be present for a facility that is not an inn, motel, or hotel to qualify as a place of lodging.

Reservations at places of lodging – The Title III regulation includes provisions for reservations made by places of lodging, including requirements for procedures that will allow individuals with disabilities to make reservations for accessible guest rooms during the same hours and in the same manner as other guests.

To learn more, please visit the sites below.

[Title II: Final Rule amending 28 CFR Part 35: Nondiscrimination on the Basis of Disability in State and Local Government Services -- \(HTML\)](#)

[Title III: Final Rule amending 28 CFR Part 36: Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities -- \(HTML\)](#)

Appendices to Titles II and III:

[Appendix B: Analysis of the 2010 ADA Standards \(HTML\)](#) | [PDF format](#)

Fact Sheets:

[Highlights of the Final Rule to Amend the Department of Justice's Regulation Implementing Title II of the ADA](#)

[Highlights of the Final Rule to Amend the Department of Justice's Regulation Implementing Title III of the ADA](#)

[Adoption of the 2010 Standards for Accessible Design](#)

SPOT LIGHTS

Axiom Staffing Will Pay \$35,000 To Settle EEOC Disability Discrimination Suit

EEOC Charged that Staffing Agencies Refused to Place Applicant because of Her Back Impairment

BALTIMORE – Two staffing agencies will pay \$35,000 and provide equitable relief to settle a disability discrimination lawsuit filed by the U.S. Equal Employment Opportunity Commission (EEOC).

The EEOC charged that Axiom Staffing Group, Inc., and Axiom Staffing Group of Virginia, Inc., refused to place Deborah Reynolds through their Hagerstown, Md. facility because of her back impairment, even though Reynolds had years of experience performing clerical and customer service duties. The EEOC said that hiring officials made derogatory comments about her impairment, such as

stating that Reynolds would be “too much of a liability because of her back.”

The Americans with Disabilities Act (ADA) prohibits discrimination based on disability. The ADA also requires employers to reasonably accommodate an individual’s disability unless doing so would impose an undue hardship on the employer. The EEOC attempted to reach a voluntary settlement before it filed suit in U.S. District Court for the District of Maryland, Northern Division, Civil Action No. WDQ-09-2567.

In addition to the monetary relief to Reynolds, the consent decree settling the lawsuit enjoins Axiom Staffing Group of Virginia from engaging in any employment practice which discriminates on the basis of disability. Defendants denied

liability in the consent decree.

“It has been twenty years since the passage of the ADA, but sadly too many employers still make employment decisions based on unsubstantiated fears and biases about the abilities of individuals with disabilities,” said Regional Attorney Debra Lawrence of the EEOC’s Philadelphia District Office, which has jurisdiction over Maryland.

During fiscal year 2009, disability discrimination charges reached a record level of 21,451-- an increase of 10 percent from the prior fiscal year.

Read more: www.eeoc.gov

Faculty Member Failed to Make Prima Facie Case for Discrimination Claim

A woman faculty member, who had suffered from cancer, failed to show that she was discriminated against either on the basis of sex or disability. Since she could not show that she was differently treated as a result of sex or disability, she failed to make a prima facie case of discrimination that could proceed.

Murray was a part-time faculty member at Eastern Kentucky University (EKU). She was hired with the understanding that if she completed her doctorate within three years, she would receive a full-time appointment. After three years, she stated that she would receive her degree soon and was given a five-year contract. If she did not complete her degree within that time, she would be terminated. During the five years, she was treated for breast cancer.

Because of the time cost of dealing with the disease, an additional year was added to her five-year contract. At the end of that time she did not have a degree and was fired. She sued for sex and disability discrimination. The trial court dismissed the complaint. Murray appealed.

To make a prima facie case of employment discrimination, the plaintiff must show: 1) she was a member of a protected group, 2) she was subjected to an adverse employment action, 3) she was qualified for the position, and 4) similarly situated non-protected employees were treated more favorably. Murray was not qualified for a regular tenure-track faculty position, as that required a doctoral degree, which she failed to obtain. She could not show that she was treated any differently in

that regard than other employees of the university. Similarly, her claim for disability discrimination fails because she could not show an adverse job action that resulted from a disability. Because of her illness, she was granted a one-year job extension and still failed to qualify for the position. *Murray v. Eastern Kentucky University*, ---S.W.3d--- (2009 WL 4722760, Ct. App., Ky., 2009)

Read more: www.swlearning.com

SPOT LIGHTS CONT.

Fourth Woman to Serve on the U.S. Supreme Court



Elena Kagan has been confirmed by the Senate as the 112th justice of the U.S. Supreme Court. This historic move brings a three-woman alliance to the nation's

highest court. She is the fourth female justice to serve in this capacity.

Ms. Kagan was a member of the Clinton administration and headed the faculty at Harvard Law School. Most recently, she served in the Obama administration as the U.S. solicitor general.

Senator Patrick Leahy of Vermont, chairman of the Senate Judiciary Committee, called the achievement "a milestone that is long overdue." Here is what President Obama had to say about this decision, "Today's vote wasn't just an affirmation of Elena's intellect and accomplishments. It was also an affirmation of her character and

her temperament; her open-mindedness and even-handedness; her determination to hear all sides of every story and consider all possible arguments."

Ms. Kagan replaces retired Justice John Paul Stevens. The sworn in ceremony was held on Saturday, August 7, 2010.

Courtesy of: OSEEOC

NOTEWORTHY RULINGS

Community College of Baltimore County to Pay \$50,000 to Settle EEOC Age Discrimination Suit

The Community College of Baltimore County will pay \$50,000 and provide relief to settle an age discrimination lawsuit filed by the U.S. Equal Employment Opportunity Commission (EEOC).

The EEOC charged in its suit that the Community College of Baltimore County failed to hire Sheri Chosak as a part-time English as a Second Language (ESOL) academic advisor at its Owings Mills campus because she was 60 years old. Chosak has worked for the college as a registration clerk since 2001 at its Owings Mills campus.

The Age Discrimination in Employment Act (ADEA) prohibits employers from refusing to hire or promote individuals who are 40 or older because of age. The EEOC filed suit in U.S. District Court for the District of Maryland, Northern District (Civil action Number 1:08-cv-02563-CCB) after first attempting to voluntary settlement out of court through

its conciliation process.

In addition to the monetary relief to Chosak, the consent decree settling the lawsuit enjoins the college from further engaging in any employment practice which discriminates on the basis of age, including failing to hire or promote applicants or employees based on age. The college will provide at least two hours of mandatory training on preventing age discrimination and federal antidiscrimination laws to all managers at its Owings Mills campus. The college will also post a notice on the resolution of the lawsuit.

"Employers who refuse to hire qualified applicants based on age not only forgo the opportunity to hire talented workers, they also risk having to defend themselves against an EEOC lawsuit," said EEOC Regional Attorney Debra Lawrence of the agency's Philadelphia District Office, which oversees

Pennsylvania, Delaware, West Virginia, Maryland and parts of New Jersey and Ohio.

In Fiscal Year 2009, age based charges reached a total of 22,778, their second-highest level ever.

In Fiscal Year 2009, the EEOC held a public hearing on age discrimination and barriers to the employment of older workers. Additional information about the hearing can be found on the EEOC's website at http://www.eeoc.gov/about_eeoc/meetings/7-15-09/index.cfm.

The EEOC enforces federal laws prohibiting employment discrimination.

Find out more: www.eeoc.gov

NOTEWORTHY RULINGS Cont.

Oracle Transcription Pay \$30,000 to Settle EEOC Disability Discrimination Suit

Medical Transcription Company Denied Job to Woman Because of Multiple Sclerosis, Federal Agency Charged

BALTIMORE – Oracle Transcription Company, Inc., a Rockville, Md., transcription company, will pay \$30,000 and furnish substantial remedial relief to settle a disability discrimination lawsuit filed by the U.S. Equal Employment Opportunity Commission (EEOC).

According to EEOC's suit (Civil Action No. RWT-8:09-CV-2564) filed in the U.S. District Court for the District of Maryland, Southern Division, since at least May 2006 and continuing to the present, Oracle denied Mary Bobik a position as a full-time medical transcription editor. Oracle's supervisor told Bobik that they didn't want to "stress her out" with the responsibilities of a full-time position, even though she had worked at Oracle Transcription for several years and was regularly assigned to work more than 60 hours a week as a part-time editor. Bobik had nearly 20 years as a medical transcriptionist and as an editor and was physi-

cally capable and willing to perform the duties. Instead, the agency said, Oracle Transcription ignored Bobik's requests for a full-time job and hired other persons with less experience. Additionally, the EEOC charged, Oracle disseminated Bobik's confidential medical information to third parties.

The Americans With Disabilities Act (ADA) makes it unlawful to discriminate against a qualified individual because of a disability. The law also requires that employers keep all medical records and information confidential and in separate medical files. The EEOC filed suit after first attempting to reach a voluntary settlement out of court.

In addition to the monetary relief to Bobick, EEOC's settlement requires Oracle Transcription to provide significant remedial relief during the five-year consent decree. Oracle will:

- refrain from engaging in discrimination against employees or prospective employees on the basis of their disabilities;
- refrain from disseminating employees' confidential medical information to third parties;

- require all current and future managers responsible for the interviewing, screening, selecting, hiring and/or firing of employees to attend a live two-hour training program on the prevention of employment discrimination and compliance with federal anti-discrimination laws, with a particular emphasis on disability discrimination and the confidentiality of employee medical information;
- post notices stating its commitment to maintaining an environment free of disability discrimination; and
- submit other compliance reports to EEOC at six month intervals for the duration of the decree.

In fiscal year 2009, disability-based charges rose to an unprecedented level of 21,451, representing 23 percent of all charges filed in Fiscal Year 2009.

Courtesy of: www.eeoc.gov

Forest Lake and Stanciu Management Will Pay \$106,500 to Settle EEOC Lawsuit

BALTIMORE – Three related Maryland property management companies will pay \$106,500 and furnish significant equitable relief to settle a national origin discrimination and retaliation lawsuit filed by the U.S. Equal Employment Opportunity Commission (EEOC). The EEOC charged in its suit that Forest Lake, LLC, Forest Lake Inc. and Stanciu Management subjected Hispanic employees to a continuing pattern of discrimination and harassment based on national origin at their Lanham, Md., facility. The harassment and discrimination included repeatedly using offensive ethnic slurs and curse words toward them; ordering them to speak only English in the workplace at all times, regardless of circumstances; and threatening them with termina-

tion. The EEOC alleged that the companies imposed more stringent work requirements on Hispanic employees, such as giving them less time to complete job tasks than non-Hispanic employees and not allowing them to leave the apartment complex for lunch but permitting non-Hispanic employees to do so.

Such alleged conduct violates Title VII of the Civil Rights Act of 1964, which prohibits discrimination and harassment based on national origin. Title VII also forbids employers from retaliating against employees who complain about discrimination.

The EEOC filed suit in U.S. District Court for the District of Maryland (Civil Action Number 09:cv:02557) after first after first attempting to reach a voluntary settle-

Out of court through its conciliation process.

In addition to the \$106,500 in monetary relief, the 30-month consent decree includes injunctions against engaging in retaliation, discrimination or harassment based on national origin and mandatory anti-discrimination training of all supervisors and employees. Employees will be permitted to speak languages other than English in the workplace, as long as this poses no business hardship. The companies will implement and maintain a complaint procedure for the investigation of allegations or suspected incidents of discrimination, harassment or retaliation. Additionally, the companies will be required to report periodically to the EEOC regarding any complaints of discrimination, harassment or retaliation.

Read more: www.eeoc.gov

Community Awareness

EEO Specialists Tackle Issues, Share Ideas at 3-Day Retreat at SMCM



(St. Mary's City, MD) July 14, 2010-St. Mary's College of Maryland hosted 110 State Equal Employment Opportunity Specialists this week at their 2nd Statewide retreat July 12-14, where they tackled such issues as sexual harassment prevention, workplace violence, and mental health in the workplace, and listened to speakers Glynis Watford, Statewide EEO Coordinator; Eloise Foster, Secretary of the Department of Budget and Management; Georgia Brady, Administrative Law Judge; and State Attorney General Douglas Gansler.

Participants were welcomed Monday by Joseph Urgo, college President, and Thomas Botzman, college Vice President. This is the second time in recent years the college has been the site of the annual three-day training retreat, which is a chance for the enforcers of worker rights across the State of Maryland to share ideas and successes. "We were proud to host the first statewide EEO Retreat in 2008, and the 2010 EEO Retreat, and look forward to continuing to host the EEO Retreat in the coming years," said Melvin "Mac" McClintock, EEO Officer for the college.

"The goals of this retreat," said EEO Coordinator Glynis Wat-

ford, "are to strengthen our professional knowledge and to unite us in our dedication to the enforcement of the State's EEO Program." The theme, she added, is **WorkSmart**, "to reflect our efforts to develop and enhance our skills and knowledge, and rely on the many talented resources available within our state government."

Gansler, who is up for reelection this fall, talked about his efforts to raise the number of minorities in the attorney general's office. "When I came, there were 427 lawyers in the attorney general's office. Of that, 12 were African-American, 2 were Asian, and 1 was Latino." Gansler also is proud of his work to create a lacrosse league in Baltimore for minority children ages 5-9. Gansler played lacrosse in high school and college, and continues to play when he can.

Brady, one of 62 judges who travel the state to hear discrimination cases, told the group she remembers well when women were paid far less than men in the workplace. Why was this tolerated and now is not? "People like you don't tolerate it anymore, lawyers don't tolerate it anymore. Keep on not tolerating it," she told the EEO

officials.

Secretary Foster gave an overview of the State Budget for FY 2011, speaking of the challenges of diminished revenues the state faces. She charged the EEO Retreat participants to continue to build their knowledge and to train the State's workforce with the goal of preventing inequities among State employees and the citizens they serve.

St. Mary's College of Maryland, designated the Maryland State honors college in 1992, is ranked one of the best public liberal arts schools in the nation by *U.S. News & World Report*, *Kiplinger's*, and *The Princeton Review*. Founded in 1840 as Maryland's "monument school" commemorating the State's first capital, SMCM is the state's only public honors college.

More than 2,000 students attend the college, which has the highest four-year graduation rate for all Maryland public colleges and universities. The school's waterfront campus along the St. Mary's River in Southern Maryland is home to the 2010 National Intercollegiate Sailing Association Team champions.

Courtesy of : SMCM

Community Awareness Cont.

Promote Diversity In The Workplace

America is regarded as the “Great Melting Pot.” In the 1908 play, “The Melting Pot,” this term was popularized to signify complete cultural assimilation. Our society is made up of a mesh of people of diverse cultures, races, religions, genders, ages, etc., where these unique characteristics spiral the growth of our Nation.

As Americans, we value our differences and in our workplaces, the varied

perspectives and talents are vital to our growth, survival and success.

It benefits our State government when our differences are respected and utilized. It is important that we continue to develop the diverse talents at all levels in our workforce to bring fresh ideas, perspectives and views to the workplace. Embracing the concept of diversity and inclusion can create a more

harmonious work environment and promote the State’s commitment to providing a work environment free from discrimination.

Composed by: Glynis Watford

Training Opportunities



Mediation Training - Sep/Oct 2010

September 27 - October 1, 2010
(9:00 a.m. to 5:00 p.m.)
Maryland Fire and Rescue Institute,
Room 2
University of Maryland
4500 Paint Branch Parkway, College
Park, MD
www.natctr4adr.org

Investigative Techniques and Discriminatory Law Theory

Wednesday October 20, 2010
(9:00 am-4:00 pm) and October 27,
2010 (9:00 am—2:00 pm)

Maryland Department of Transportation
7201 Corporate Center Drive
Harry Hughes Room-Suite 3
Hanover, MD 21076

RACE DEMYSTIFIED

A Compassionate, Non-confrontational Approach to Understanding Race in America

September 16 & 17, 2010
(9:00 a.m. to 5:00 p.m.)
Center for ADR
7315 Hanover Parkway, Suite C,
Greenbelt, MD
www.natctr4adr.org

Litigation under the ADA Amendments Act

Wednesday, September 29, 2010
2:00-3:30 P.M. EST
Online/Web-based

The passage of the ADA Amendments Act sought to change the narrow interpretations by courts of the definition of disability. But what has been the real impact of the ADAAA? This session will analyze the initial case decisions interpreting the provisions of the ADAAA and its regulations, and identify any emerging trends.
www.adainfo.org

This training will provide you with the tools to investigate complaints of unlawful employment practices. Discover how to identify, explore and analyze the components of an effective investigation of discrimination from start to finish that achieves credible investigative results.

To register call 410-767-3800
Office of the Statewide EEO
Coordinator

EEOC Law Week

September 13 - 17, 2010
International Student House, 1825 R Street
NW, Washington DC (near DuPont Circle)

This seminar is a fast-paced week of strategies, principles, and authorities relative to the major aspects of the field of discrimination law in the federal government.
www.feltg.com

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HISTORY FACT

**DIVERSITY
CORNER**

Women's Equality Day - August 26



Women in the United States were given the right to vote on August 26, 1920 when the 19th Amendment to the United States Constitution was signed. The amendment was first introduced many years earlier in 1878. Every president has published a proclamation for Women's Equality Day since 1971 when legislation was first introduced in Congress by Bella Abzug. This resolution was passed designating August 26 of each year as Women's Equality Day.

Read more: www.oneamerica.net

Women's Equality Day

The US Congress designated 26th August as "Women's Equality Day" in 1971, to commemorate the 1920 passage of the 19th Amendment to the Constitution which granted women in the United States the right to vote. Each year a Presidential Proclamation recognizes the hard work and perseverance of those who have helped secure women's suffrage.

The 19th Amendment, known as the Susan B Anthony Amendment after the famous suffragist, states: "The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of sex."

This amendment marked the culmination of almost two centuries of women's struggle for full

voting rights in the United States. Whilst some groups pro-actively celebrate this day, it is more usually recognized in the media as being a day on which to bring to the attention of people equality issues relating specifically to women.

Read more: www.whichday.com