

EEO CONNECTION

Statewide EEO Coordinator's Message

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Happy New Year everyone! Hoping and praying that 2021 will be better than 2020 in so many ways. This can be a reality if we all “do our part.” Science tells us that wearing a mask, social distancing 6 feet apart, and getting the vaccination will help us to defeat this COVID 19 virus. Respect, kindness, equality and acceptance of our uniqueness, background, personality, etc. will allow us to pursue our goals and careers in a judgement and discrimination-free environment. In addition, taking care of our own mental health will help us manage our emotions and stress level. Today, ask yourself, “Am I doing my part?”

The staff at the Office of the Statewide EEO Coordinator continues to bring you the latest EEO news and information, engage agencies in their compliance efforts with State and federal EEO laws and policies, offer relevant training opportunities and first-class presenters on EEO, effective communication, diversity and inclusion, and other relevant topics. We are working hard to “do our part.”

In this issue of the newsletter, reacquaint yourself with the OSEEOC's mission on page 2. Get answers to some of your colleagues' burning EEO questions on page 3. President Biden has name a new Chair and Vice Chair at the EEOC. (pg. 5) On page 9, read why an Atlanta based food company was sued by the EEOC for disability discrimination. There is lots more interesting things to read. Simply, turn the page.

Enjoy!

Glynis Watford
Statewide EEO Coordinator

Office of the Statewide EEO Coordinator Mission

- Administer and enforce state and federal equal employment opportunity laws and policies.
- Promote a work environment free of any unlawful discrimination, harassment, and retaliation.
- Assist in building a well-diversified workforce for Maryland State Government employees and applicants.



Ask the OSEEOC Team

1. QUESTION

What is discrimination based on "relationship or association?"

OSEEOC ANSWER:

The ADA prohibits discrimination based on relationship or association in order to protect individuals from actions based on unfounded assumptions that their relationship to a person with a disability would affect their job performance, and from actions caused by bias or misinformation concerning certain disabilities. For example, this provision would protect a person with a disabled spouse from being denied employment because of an employer's unfounded assumption that the applicant would use excessive leave to care for the spouse. It also would protect an individual who does volunteer work for people with AIDS from a discriminatory employment action motivated by that relationship or association.

2. QUESTION

Who should an employee file their bullying complaint with when it is a non–equal employment opportunity matter?

OSEEOC ANSWER:

According to the State of Maryland, Bullying in the Workplace policy, an employee who feels they have been a victim of bullying that is not because of the individual's age, ancestry, color, creed, gender identity and expression, genetic information, marital status, mental or physical disability, national origin, race, religious affiliation, belief or opinion, sex, sexual orientation or any other protected status, should file a complaint with their appointing authority or agency head/Secretary, as appropriate.

3. QUESTION

How much information may an employer request from an employee who calls in sick, in order to protect the rest of its workforce during the COVID-19 pandemic?

OSEEOC ANSWER:

During a pandemic, ADA-covered employers may ask such employees if they are experiencing symptoms of the pandemic virus. For COVID-19, these include symptoms such as fever, chills, cough, shortness of breath, or sore throat. Employers must maintain all information about employee illness as a confidential medical record in compliance with the ADA.

4. QUESTION

Is the COVID-19 vaccination mandatory for Maryland residences?

OSEEOC ANSWER:

Governor Hogan said on December 8, 2020, that there is no intention of requiring residents to get vaccinated, "but we're going to do everything we can to encourage it." Governor Hogan also stated that to be effective, these vaccines need to reach a vast majority of our population and to do so in a relatively short period of time.

EEO Spotlight

EEOC UNVEILS NEW WEBPAGE CONCERNING SYSTEMIC ENFORCEMENT

Agency Explains Important Tool to Fight Discrimination

WASHINGTON – The U.S. Equal Employment Opportunity Commission (EEOC) posted new information on its website explaining the use of administrative and litigation tools used to identify and pursue systemic discriminatory practices – [Systemic Enforcement at the EEOC](#).

“The EEOC is strongly committed to making our processes fully transparent and useful to the public,” said Chair Janet Dhillon. “Systemic enforcement is an important mechanism the Commission uses to remedy discrimination that has broad impacts on industries, professions, or geographic areas. It is vital that the public knows how we use this tool.”

The purpose of the new webpage is to provide transparency about how the Commission approaches systemic discrimination enforcement efforts. The webpage provides background on how the Commission determined that systemic enforcement is effective, explains how the EEOC determines what is systemic discrimination, and details the process of initiating and conducting a systemic case.

EEOC advances opportunity in the workplace by enforcing federal laws prohibiting employment discrimination. More information is available at www.eeoc.gov.



EEOC ISSUES UPDATED COVID-19 TECHNICAL ASSISTANCE PUBLICATION

Contains Q&A Section on Vaccinations

WASHINGTON – The U.S. Equal Employment Opportunity Commission (EEOC) posted an updated and expanded technical assistance publication addressing questions arising under the Federal Equal Employment Opportunity Laws related to the COVID-19 pandemic.

The publication, “[What You Should Know About COVID-19 and the ADA, the Rehabilitation Act, and Other EEO Laws](#),” now includes a new section providing information to employers and employees about how a COVID-19 vaccination interacts with the legal requirements of the Americans with Disabilities Act (ADA), Title VII of the Civil Rights Act of 1964, and the Genetic Information Nondiscrimination Act (GINA). This includes issues pertaining to medical pre-screening questions and employer accommodations for those unable to receive a vaccination.

In response to inquiries from the public, the EEOC [has provided resources on its website](#) related to the pandemic in an employment context. The agency will continue to monitor developments and provide assistance to the public as needed.

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EEO Spotlight



PRESIDENT APPOINTS CHARLOTTE A. BURROWS EEOC CHAIR

Jocelyn Samuels Named Vice Chair

WASHINGTON -- The U.S. Equal Employment Opportunity Commission (EEOC) announced that President Biden has named Commissioner Charlotte A. Burrows Chair of the EEOC and Commissioner Jocelyn Samuels Vice Chair of the EEOC.

Burrows has served as an EEOC Commissioner since 2015, having been initially nominated by President Barack Obama. In 2019 she was re-nominated and unanimously confirmed for a second term ending in 2023.

"I am deeply honored to be chosen by President Biden to lead the Equal Employment Opportunity Commission," Chair Burrows said. "The EEOC's mission to advance equal opportunity for all in the workplace is particularly critical as we work to rebuild the American economy and address the challenges of systemic discrimination. I look forward to working with the President, my colleagues at the Commission, Congress, and the American people to ensure that everyone has a fair chance at success."

Chair Burrows' government experience includes service as Associate Deputy Attorney General at the U.S. Department of Justice, where she worked on a broad range of civil and criminal matters, including employment litigation, voting rights, combating racial profiling, and implementing the Violence Against Women Act, which was first co-sponsored in Congress in 1994 by then Senator Biden, and reauthorized several times since. Before joining the Department of Justice, she served as General Counsel for Civil and Constitutional Rights to former Senator Edward M. Kennedy on the Senate Judiciary Committee and later on the Senate Committee on Health, Education, Labor and Pensions.

Vice Chair Jocelyn Samuels joined the EEOC as a Commissioner on Oct. 14, 2020.

Read full article at: <https://www.eeoc.gov/newsroom/president-appoints-charlotte-burrows-eeoc-chair>

NOTEWORTHY RULINGS

MVM WILL PAY \$200,000 TO SETTLE EEOC CLASS SEXUAL HARASSMENT AND RETALIATION LAWSUIT

Federal Contractor Subjected Women to Sexual Harassment and Fired One Who Complained, Federal Agency Charged

BALTIMORE – MVM, Inc., an Ashburn, Va.-based diversified security services firm, will pay \$200,000 in monetary relief and furnish significant equitable relief to settle a federal class sexual harassment and retaliation discrimination lawsuit filed by the U.S. Equal Employment Opportunity Commission (EEOC), the federal agency announced.

According to the EEOC's lawsuit, MVM's site manager at the Social Security Administration's Woodlawn, Md., campus subjected a female security guard to sexual harassment, including unwanted physical touching and lewd sexual comments. When the manager cornered the guard on an elevator and kissed her without her consent, she complained to management. Two weeks later, MVM fired her in retaliation.

The same manager subjected a class of female employees to inappropriate sexual comments and unwanted touching, the EEOC said, including making sexual advances and crude comments about their appearance, requesting explicit pictures, pushing himself on an employee, and trying to kiss another. Although supervisors and high-level managers witnessed the harassment, MVM allowed it to continue unabated.

The two-year consent decree resolving the lawsuit provides \$100,000 in monetary relief to the female security guard who was harassed and terminated and \$100,000 to the class of female employees that the EEOC identified as experiencing unlawful sexual harassment. The decree enjoins MVM from engaging and creating a hostile work environment based on sex and from engaging in retaliation in the future.

In addition, MVM must implement equitable relief, including modifying the security guard's records to reflect a voluntary termination and providing a mitigation letter for future employment background checks; training of employees; and the appointment of a vice president of human resources as an internal consent decree monitor.

"MVM's site manager exploited his authority by making unwanted sexual advances towards his subordinates," said EEOC Philadelphia Regional Attorney Debra Lawrence. "MVM management made the situation even worse by ignoring the manager's ongoing conduct and firing a harassment victim for complaining. The EEOC is here to stop such misconduct and make sure it does not recur."

Read the full article at <https://www.eeoc.gov/newsroom/mvm-will-pay-200000-settle-eeoc-class-sexual-harassment-and-retaliation-lawsuit>



NOTEWORTHY RULINGS

EEOC WINS JUDGMENT AGAINST ENOCH PRATT FREE LIBRARY AND BALTIMORE CITY FOR PAY DISCRIMINATION

Court Awards Nearly \$200,000 to Five Female Librarian Supervisors

BALTIMORE – On Dec 23, the United States District Court for the District of Maryland ruled that Baltimore City and its Enoch Pratt Free Library violated federal law by paying female Librarian Supervisor lower wages than a male coworker because of sex. The ruling followed a five-day virtual bench trial which occurred September 28 through October 2.

According to the suit filed in September 2017, Enoch Pratt Library rehired a male in June 2015 as a Librarian Supervisor I at a salary which was thousands more than that paid to the five females who held that position even though the male had fewer years of service and experience. U.S. District Judge Paula Xinis rejected the Library's argument that the male and female Librarian Supervisor Is did not perform the same work, noting that the Library treats Librarian Supervisor Is as "fungible" by not recruiting for specific branches and transferring them from branch to branch on short and long-term bases. Judge Xinis also rejected the Library's argument that the salary disparity was based on a reason unrelated to sex, finding that the Library had failed to produce any evidence to explain the male's higher salary.

In addition to awarding full back pay to the five female Librarian Supervisor Is, Judge Xinis also awarded liquidated damages in an amount equal because the defendants failed to show that the pay disparity was in good faith and that they had reasonable grounds to believe that they were not violating the law. The Court also ordered appropriate adjustments to the females' retirement benefits in light of the award of back wages.

"The City and Library had numerous missed opportunities to equally compensate these long-term female employees, but instead chose to litigate the matter," said Assistant General Counsel Maria Salacuse. "The Court's judgment validates that their work is of equal value."

"This ruling is a significant reminder to employers, including public employers, that they have a responsibility to ensure that their employees are paid equally for equal work," said EEOC Philadelphia Regional Attorney Debra Lawrence.

Philadelphia District Director Jamie R. Williamson said, "The EEOC remains committed to eradicating sex-based wage discrimination. Employers must pay women equal wages for equal work."

Read the full article at: <https://www.eeoc.gov/newsroom/eeoc-wins-judgment-against-eno-ch-pratt-free-library-and-baltimore-city-pay-discrimination>



ADA CORNER

TREEHOUSE FOODS SUED BY EEOC FOR DISABILITY DISCRIMINATION

Nineteen-Year Employee With Disabilities Denied Intermittent Leave as Reasonable Accommodation and Then Fired, Federal Agency Charges

ATLANTA – Treehouse Foods, Inc. / Treehouse Foods Private Brands, Inc., a food products manufacturer, violated federal law when it denied a machine operator in its Forest Park bakery a reasonable accommodation for her physical disabilities, the U.S. Equal Employment Opportunity Commission (EEOC) charged in a lawsuit it recently filed.

According to the EEOC's suit, Treehouse Foods denied its 19-year employee's request for an accommodation in the form of intermittent unpaid leave on at least five occasions due to treatment and hospitalizations for her COPD, chronic bronchitis, chronic bleeding ulcer and high blood pressure. Instead, Treehouse Foods failed to engage in the interactive process and assessed attendance infraction points to the employee under a rigid attendance policy. Treehouse Foods then fired her for exceeding the permissible number of attendance points, the EEOC said, despite the fact she provided medical excuses showing the absences were disability-related and despite the fact Treehouse Foods' third-party administrator later approved the leave.

Such alleged conduct violates the Americans with Disabilities Act (ADA), which prohibits employers from making employment decisions based on an individual's disabilities. The EEOC filed suit (Civil Action No. 1:21-CV-0204-WMR-JKL) in U.S. District Court for the Northern District of Georgia, Atlanta Division, after first attempting to reach a pre-litigation settlement via its conciliation process. The EEOC is seeking back pay, front pay, and compensatory and punitive damages for the employee, as well as injunctive relief to prevent future discrimination.

"The use of intermittent medical leave for treatment of a disability is widely recognized as a reasonable accommodation," said Marcus G. Keegan, regional attorney for the EEOC's Atlanta District Office. "The request for accommodation could have easily been granted here, but Treehouse Foods fired a 19-year employee on the verge of retirement instead of engaging in the interactive process and accommodating her. Such treatment is unethical and unlawful."

Read the full article at: <https://www.eeoc.gov/newsroom/treehouse-foods-sued-eeoc-disability-discrimination>



ADA CORNER

Kindred at Home to Pay \$160,000 to Settle EEOC Disability Discrimination Lawsuit

ATLANTA – Gentiva Health Services, doing business as Kindred at Home, a provider of home health services including nursing and rehabilitation assistance, will pay \$160,000 to settle a disability discrimination lawsuit filed by the U.S. Equal Employment Opportunity Commission (EEOC), the federal agency announced.

The EEOC's suit charged that Kindred learned that one of its employees suffered from Morton's neuroma and capsulitis of the metatarsophalangeal joints of both feet. The employee initially asked to telecommute for three weeks as an accommodation for her disability and in accordance with her doctor's recommendation to stay off her feet. Kindred originally allowed her to telework for a week but then reversed its decision and unilaterally placed her on unpaid leave without benefits for four months, despite the fact she could perform the essential functions of her job, the EEOC said.

Such alleged conduct violates the Americans with Disabilities Act (ADA), which prohibits discrimination based on a disability. The EEOC filed suit (EEOC v. Gentiva Health Services, Inc. d/b/a Kindred at Home, Civil Action No. 1:20-CV-3936-MHC-AJB) in U.S. District Court for the Northern District of Georgia, Atlanta Division, after first attempting to reach a pre-litigation settlement through its conciliation process.

Under the two-year consent decree resolving the lawsuit, Kindred will pay \$160,000 in monetary damages to the employee. Kindred also agreed to regular reporting, monitoring, annual training, distribution of ADA policies, and notice posting.

"We appreciate Kindred's willingness to implement the safeguards outlined in the consent decree," said Marcus Keegan, regional attorney for the EEOC's Atlanta District Office. "An employer should accommodate an employee who can perform the essential functions of the position with a limited period of telework if it does not pose an undue hardship."

Darrell Graham, district director of the Atlanta office, said, "The EEOC is committed to seeking relief for workers who are harmed by employers who fail to engage in the interactive process and who discriminate against employees who have the ability to perform the essential functions of the job with or without a reasonable accommodation."

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ADA CORNER

Interconnect Cable Technologies to Pay \$35,000 to Settle EEOC Disability Discrimination Suit

Electronics Manufacturer Demoted and Fired Employee Due to Her Mental Illness,
Federal Agency Charges

Interconnect Cable Technologies Corporation (ICTC), an electronics manufacturer in Brooksville, Fla., has agreed to pay \$35,000 and furnish other relief to settle a disability discrimination lawsuit filed by the U.S. Equal Employment Opportunity Commission (EEOC), the federal agency announced.

The EEOC charged that ICTC violated federal law by demoting and later firing an employee after she was hospitalized for a mental illness. The employee was hospitalized and diagnosed with major depressive disorder. When she returned to work the following week, ICTC immediately stripped her of her job duties and later demoted her and cut her pay. ICTC terminated her employment about four months after her hospitalization.

Such alleged conduct violates the Americans With Disabilities Act (ADA), which prohibits employers from discriminating based on disability. The EEOC filed suit in U.S. District Court for the Middle District of Florida, Tampa Division (EEOC v. Interconnect Cable Technologies Corporation, Case No. 8:20-cv-00644-SCB-SPF) after first attempting to reach a pre-litigation settlement through its conciliation process.

In addition to the \$35,000 in monetary relief, the three-year consent decree settling the lawsuit requires ICTC to appoint an ADA coordinator, develop and distribute a written policy against disability discrimination, and to conduct anti-discrimination training for all company personnel. ICTC must also post a notice at its worksite about the lawsuit and submit annual written reports to the EEOC.

“This settlement reflects the EEOC’s strong commitment to protecting the rights of qualified and capable employees living with mental illness,” said Robert Weisberg, regional attorney for the EEOC’s Miami District. “Employment decisions based on stereotypes or assumptions about mental illness are unlawful, and the EEOC will take action to prevent it.”

Evangeline Hawthorne, director of the EEOC’s Tampa Field Office, said, “Demoting or firing individuals because of disability, whether physical or mental, violates federal law. This resolution brings the EEOC closer to achieving its mission of eliminating disability discrimination from America’s workplace.”

Read full article: <https://www.eeoc.gov/newsroom/interconnect-cable-technologies-pay-35000-settle-eeoc-disability-discrimination-suit>



DIVERSITY AND INCLUSION TED TALK

How to Outsmart Your Own Unconscious Bias



Valerie Alexander is the Founder and CEO of Goalkeeper Media, maker of communication bots to amplify happiness, including the Happy Couples Bot. Valerie has extensive experience in corporate and start-up arenas, but left Silicon Valley to find success as a screenwriter in Los Angeles. Valerie wrote, produced and directed more than 50 shorts, commercials and PSAs, including the award-winning, anti-bullying short film, “Ballpark Bullies”, and the groundbreaking commercial, “Say I Do”, in support of marriage equality.

Author, speaker and CEO, Valerie Alexander, explains how the human brain instinctively reacts when encountering the unexpected, like saber-toothed tigers or female tech execs, and proposes that if we have the courage to examine our own behavior when faced with the unfamiliar, we can take control of our expectations, and by doing so, change the world.

<https://youtu.be/GP-cqFLS8Q4>



Meetings & Trainings

Free Diversity and Discrimination Prevention Training

Hosted by: MCCR

Location: Virtual Instruction Available

Click this [link](#) for a list of topics.

Contact: Kara Hunt, Director: Kara.Hunt1@maryland.gov
Keith Merkey, Associate: Keith.Merkey@maryland.gov

Heritage and History Month Events

Hosted by: The Smithsonian

More Information: <https://www.si.edu/events/heritagemonth>

Lessons Learned: ADA Coordinators Talk About COVID-19

February 10, 2021

Presented by TransCen, Inc. and the Mid-Atlantic ADA Center

This webinar will feature a COVID-19 discussion with ADA Coordinators from different parts of the Mid-Atlantic Region. They will share lessons learned and best practices.

There's no cost to access this webinar. Real-time open captions will be available through the webinar platform.

Register: <https://www.adainfo.org/training/ada-coordinators-talk-covid>

Uncovering Your Unconscious Bias - Public Workshop

Hosted by: Lorne Epstein

Thu, February 11, 2021

12:00 PM – 1:30 PM EST

Register: <https://www.eventbrite.com/e/february-11th-uncovering-your-unconscious-bias-public-workshop-tickets-129583091515>

COVID-19 Webinar (prerecorded)

Hosted by: EEOC

Available March 27, 2021

www.eeoc.gov

The webinar will supplement the COVID-19 publications already issued by the EEOC. The EEOC is asking for questions to be submitted by email to COVID19.Questions@eeoc.gov by 9:00 p.m. (eastern time) on Wednesday March 25th for consideration in this webinar.

2021 DIVERSITY CALENDAR

January 2021

National Disability Employment Awareness Month
National Italian American Heritage Month

February 2021

Black History Month
American Heart Month
Human Relations Month

2/1 National Freedom Day
2/4 World Cancer Day
2/15 President's Day
2/17 Ash Wednesday

March 2021

Women's History Month
Developmental Disabilities Awareness Month
Gender Equality Month
Deaf History Month (3/13-4/15)

3/8 International Women's Day
3/17 St. Patrick's Day
3/21 International Day for the Elimination of Racial Discrimination



RESOURCES FOR EEO PROFESSIONALS

Division of Rehabilitation Services (DORS)

<http://dors.maryland.gov/Pages/default.aspx>

Department of Labor

<http://www.dol.gov/>

Employee Assistance Program (EAP)

<http://www.dbm.maryland.gov/employees/Pages/EAP.aspx>

Equal Employment Opportunity Commission (EEOC)

<http://www.eeoc.gov/>

Job Accommodation Network (JAN)

<https://askjan.org/>

Maryland Commission on Civil Rights (MCCR)

<http://mccr.maryland.gov/>

Society for Human Resource Management (SHRM)

<http://www.shrm.org/pages/default.aspx>

Maryland Department of Disabilities

<http://mdod.maryland.gov/Pages/Home.aspx>

Out & Equal Workplace Advocates

<http://outandequal.org/>

National Service Animal Registry

<https://www.nsarco.com/>

Maryland LGBT Chamber of Commerce

<https://mdlgbt.org>

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