

EEO CONNECTION

Statewide EEO Coordinator's Message

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As we continue on with life – and businesses and workplaces start opening their doors inviting people back in, some employees are hesitant about returning to work. Over the last several months, there has been an increase in the number of State employees that have received the COVID-19 vaccination who have a continuing concern about returning to the workplace because of a mental and/or physical disability and a heightened concern of severe illness from COVID-19 infection. Most of these employees have contacted their agency ADA Coordinator or HR representative to request reasonable accommodation and the majority of the requests are to continue to telework full-time or work a hybrid schedule (in office and telework). These requests must be processed according to ADA standards – engaging in an interactive process with the employee to determine if there is a disability related need for a reasonable accommodation. Through this process, the employer can determine if the requested accommodation is feasible or if another accommodation can be provided that is equally effective. Read more in our Q&A section on page 3. Also, check out page 4, to read EEOC's updated COVID-19 Technical Assistance Guidance. This updated guidance includes answers to questions relating to vaccinations and federal laws, among other things.

Read why a transportation company and staffing agency are paying out \$2 million to settle a race harassment and retaliation lawsuit (pg. 8), and on pg. 9 read why a Baltimore company is paying \$25,000 to settle a disability discrimination lawsuit. Learn 3 ways to be a better ally in the workplace in a TED Talk by Melinda Epler on pg. 12. There is so much more to read about. 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

Where can I locate the reasonable accommodation forms on your website?

OSEEOC ANSWER:

The Reasonable Accommodation Employee Request form and the Employer Review form are no longer attached to the Reasonable Accommodation Policy and Procedure. The forms are located on the OSEEOC website at

<https://dbm.maryland.gov/eeo/Pages/EEOFairPracCorner.aspx>.

2. QUESTION

Who provides ADA Reasonable Accommodation training within the state?

OSEEOC ANSWER:

Employees should consult with their designated ADA Coordinator concerning this training.

3. QUESTION

Is information about an employee's COVID-19 vaccination confidential medical information under the ADA?

OSEEOC ANSWER:

Yes. The ADA requires an employer to maintain the confidentiality of employee medical information, such as documentation or other confirmation of COVID-19 vaccination. This ADA confidentiality requirement applies regardless of where the employee gets the vaccination.

4. QUESTION

What should an employer do if an employee who is fully vaccinated for COVID-19 requests accommodation for an underlying disability because of a continuing concern that he or she faces a heightened risk of severe illness from a COVID-19 infection, despite being vaccinated?

OSEEOC ANSWER:

Such request from an employee should be processed in accordance with applicable ADA standards. Whether the employee is fully vaccinated or not, the employer should engage in an interactive process to determine if there is a disability-related need for reasonable accommodation. This process typically includes seeking information from the employee's health care provider with the employee's consent explaining why an accommodation is needed. For example, some individuals who are immunocompromised might still need reasonable accommodations because their conditions may mean that the vaccines may not offer them the same measure of protection as other vaccinated individuals. If there is a disability-related need for accommodation, an employer must explore potential reasonable accommodations that may be provided absent undue hardship.

EEOC ISSUES UPDATED COVID-19 TECHNICAL ASSISTANCE GUIDANCE

The EEOC has updated and expanded its technical guidance on COVID-19 and the ADA and other EEO laws. This guidance was created to answer questions frequently asked about the workplace during a pandemic. The most recent supplement to this guidance was issued May 28, 2021. It responds to questions raised relating to vaccinations and federal EEO laws (including, the ADA, the Genetic Information Nondiscrimination Act (GINA) and Title VII of the Civil Rights Act, as amended, inter alia, by the Pregnancy Discrimination Act (Title VII).

It is important to remember that the analysis of how the technical guidance applies in any specific instance should be conducted on an individualized basis.

Read the full guidance: <https://www.eeoc.gov/newsroom/eeoc-issues-updated-covid-19-technical-assistance>



HISTORY OF WOMEN'S EQUALITY DAY

Women's Equality Day, celebrated every August 26, commemorates the passage of women's suffrage in the U.S. and reminds us of the hurdles overcome by the heroic women who faced violence and discrimination to propel the women's movement forward.

In the early 19th century, American women, who generally couldn't inherit property and made half of a man's wages in any available jobs, began organizing to demand political rights and representation.

By the early 1900s, several countries including Finland, New Zealand, and the United Kingdom had legalized voting for women as the movement continued to sweep across the world. In the U.S., the 19th Amendment to the Constitution was first introduced in 1878, but it failed to gain traction. It wasn't until women's involvement in the World War I effort made their contributions painfully obvious that women's suffrage finally gained enough support. Women's rights groups pointed out the hypocrisy of fighting for democracy in Europe while denying it to half of the American citizens at home.

Because a Constitutional amendment requires approval from two-thirds of the states, 36 of them had to ratify the 19th Amendment before its passage. The deciding vote in the Tennessee legislature came from Harry T. Burn, a young state representative whose mother's plea to support the amendment became a deciding factor in his vote (which he switched at the last minute).

Women aren't done fighting for equal rights. Today, the wage gap between men and women still impacts women's economic power, and gender-based discrimination still plagues workplaces and business transactions.

<https://nationaltoday.com/womens-equality-day/>



EEOC ANNOUNCES NEW RESOURCES ABOUT SEXUAL ORIENTATION AND GENDER IDENTITY WORKPLACE RIGHTS

Federal Agency Continues Its Work in Forefront of LGBTQ+ Rights

WASHINGTON – The U.S. Equal Employment Opportunity Commission (EEOC) is observing LGBTQ+ Pride Month, and the anniversary of the U.S. Supreme Court ruling in *Bostock v. Clayton County*, by announcing the release of new resources to educate employees, applicants and employers about the rights of all employees, including lesbian, gay, bisexual and transgender workers, to be free from sexual orientation and gender identity discrimination in employment. The materials include a new [landing page](#) on the EEOC website that consolidates information concerning sexual orientation and gender identity discrimination and a [new technical assistance document](#) to help the public understand the *Bostock* decision and established EEOC positions on the laws the agency enforces.

The new landing page consolidates information the public needs to know about the scope of protections against discrimination based on sexual orientation and gender identity, as well as information about harassment, retaliation and how to file a charge of discrimination with the EEOC. Additionally, there are links to EEOC statistics and updated fact sheets concerning [recent EEOC litigation](#) and [federal sector decisions](#) regarding sexual orientation and gender identity discrimination.

“All people, regardless of sexual orientation and gender identity, deserve an opportunity to work in an environment free from harassment or other discrimination,” EEOC Chair Charlotte A. Burrows said. “The Supreme Court’s decision in *Bostock v. Clayton County* is a historic milestone that resulted from the struggle, sacrifice, and vision of many brave LGBTQ+ individuals and allies who had championed civil rights for the LGBTQ+ communities. The new information will make it easier for people to understand their rights and responsibilities related to discrimination based on sexual orientation and gender identity.”

Read the full article: <https://www.eeoc.gov/newsroom/eeoc-announces-new-resources-about-sexual-orientation-and-gender-identity-workplace-rights>



NOTEWORTHY RULINGS

DOLLAR GENERAL WILL PAY \$50,000 TO SETTLE EEOC SEXUAL HARASSMENT SUIT

Assistant Store Manager Subjected to Egregious Sexual Harassment by Store Manager, Federal Agency Charged

BALTIMORE – Dolgencorp, LLC, trading as Dollar General Stores Inc., a national retailer that operates over 17,000 stores in 46 states, will pay \$50,000 and furnish significant equitable relief to settle a federal sexual harassment suit, the U.S. Equal Employment Opportunity Commission (EEOC) announced.

According to the suit, the store manager for the Rock Hall, Md., Dollar General repeatedly subjected an assistant manager to unwelcome harassment, including once grabbing her head and forcing it to his crotch; grabbing her and ripping her blouse, and rubbing her shoulders. He also made sexually charged innuendos and comments about her appearance. After the assistant manager complained to Dollar General management, and instead of addressing the problem, the company transferred her to its Chestertown store, which required fewer and less convenient hours and added an hour to her daily commute, the EEOC charged.

Sexual harassment violates Title VII of the Civil Rights Act of 1964 (Title VII). The EEOC filed suit (EEOC v. Dolgencorp, LLC, t/a Dollar General Stores Inc., Civil Action No. 1:18-cv-02956 SAG) in U.S. District Court for the District of Maryland, Baltimore Division, after first attempting to reach a pre-litigation settlement through its conciliation process.

The two-year consent decree resolving the lawsuit provides \$50,000 in monetary relief to the former assistant manager. The decree enjoins Dollar General from creating or maintaining a hostile work environment based on sex. Dollar General will provide training on Title VII and the defendant's policies against sexual harassment and discrimination, post the posters required by EEOC regulations, and report to the EEOC on its compliance with the consent decree and on how it handles any future complaints of sexual harassment.

"Employers should ensure that managers, and all employees, follow their anti-harassment policies and do not engage in unwelcome harassment," said EEOC District Director Jamie R. Williamson. "Employers should also advise all workers that harassment complaints will be investigated and acted upon appropriately and without retaliation."

Read the full article at: <https://www.eeoc.gov/newsroom/dollar-general-will-pay-50000-settle-eeoc-sexual-harassment-suit>



NOTEWORTHY RULINGS

RYDER AND KIMCO SETTLE EEOC RACE HARASSMENT AND RETALIATION LAWSUITS FOR \$2 MILLION

Transportation Company and Staffing Agency Created Racially Hostile Work Environment, Federal Agency Charged

LOS ANGELES – Ryder Integrated Logistics, Inc., a Miami-based transportation and supply chain solutions company, and Orange County-based staffing agency Kimco Staffing Services, Inc. will pay \$1 million each, for a total of \$2 million, and provide significant injunctive relief to resolve the lawsuit alleging that the companies violated federal law by subjecting African American employees to racial discrimination, harassment and retaliation, the U.S. Equal Employment Opportunity Commission (EEOC) announced.

According to the EEOC's lawsuit, African American employees assigned by Kimco to Ryder's Moreno Valley, Calif., facility, along with African American employees directly hired by Ryder, were subjected to ongoing and unwelcome harassment based on their race. The EEOC contends that Ryder and Kimco created a hostile working environment by allowing employees to use racial slurs and epithets towards their Black colleagues. The EEOC charged that after an African American employee complained about racial harassment, neither Ryder nor Kimco corrected the situation, instead firing the employee within days of reporting the harassment.

The EEOC's suit also alleged that Ryder and Kimco discriminated against African American workers in the terms and conditions of employment in assignment, training, promotion, discipline and termination.

"This case underscores the unfortunate reality that racial harassment and retaliation remain a problem in American workplaces," said EEOC Chair Charlotte A. Burrows. "Confronting these issues is of critical importance to the EEOC and our nation. The EEOC will continue to use outreach, education, and enforcement when necessary to ensure that employers — and staffing agencies — understand their obligation to prevent and correct unlawful harassment and ensure that workers can raise concerns without fear of reprisal."

Racial discrimination, harassment and retaliation for complaining about it are prohibited by Title VII of the Civil Rights Act of 1964. The EEOC filed suit in U.S. District Court for the Central District of California (EEOC v. Kimco Staffing Services, Inc. and Ryder Integrated Logistics, Inc., Case No. 5:19-cv-01838-JFW-SP) after first attempting to reach a pre-litigation settlement through its voluntary conciliation process.

In addition to monetary relief, Ryder Integrated Logistics will provide injunctive relief aimed at preventing workplace harassment, discrimination, and retaliation. The consent decree includes the selection of an equal employment opportunity coordinator; the creation of a centralized tracking system for race-based harassment, discrimination and retaliation complaints; the review and revision of policies prohibiting discrimination; and the distribution of those policies to all employees. Additionally, Ryder will create an internal complaint process and discrimination training for all employees.

Read the full article: <https://www.eeoc.gov/newsroom/ryder-and-kimco-settle-eeoc-race-harassment-and-retaliation-lawsuits-2-million>

ADA CORNER

DESIGN AND INTEGRATION, INC. WILL PAY \$25,000 TO SETTLE EEOC DISABILITY DISCRIMINATION LAWSUIT

Audio-Visual Company Fired Worker Who Requested Telework Accommodation, Federal Agency Charged

BALTIMORE – Design and Integration, Inc., a leading provider of audio-visual technology solutions, will pay \$25,000 and furnish significant equitable relief to resolve a federal disability discrimination suit filed by the U.S. Equal Employment Opportunity Commission (EEOC), the federal agency announced.

According to the EEOC's lawsuit, a sales administrator who worked in Design and Integration's Baltimore headquarters requested to telework one day per week for a three-or four-week period as a reasonable accommodation for her disability, anxiety and depression. Design and Integration refused to grant this accommodation even though the sales administrator could perform her duties remotely and the company allowed other employees to telework. Instead, company management discharged the sales administrator, advising that it would not have hired her had it known about her anxiety and depression.

The Americans with Disabilities Act (ADA) prohibits discrimination based on disability. The ADA also requires employers to reasonably accommodate an individual's disability unless the employer can prove that doing so would be an undue hardship. The EEOC filed suit (EEOC v. Design and Integration, Inc., Civil Action No. 20-cv-2350) in U.S. District Court for the District of Maryland, Baltimore Division, after first attempting to reach a pre-litigation settlement through its conciliation process.

In addition to \$25,000 in monetary relief to the worker, the four-year consent decree resolving the lawsuit enjoins Design and Integration from violating the ADA, including from refusing to provide telework as a reasonable accommodation. Design and Integration must provide equitable relief, including developing and distributing an ADA policy to employees, providing training on the ADA, posting a notice of the settlement and posters required by EEOC regulations, and reporting to the EEOC on its compliance with the consent decree and its handling of any future requests for reasonable accommodation.

"We appreciate that Design and Integration worked with us to resolve this case amicably and expeditiously," said EEOC Regional Attorney Debra M. Lawrence. "In addition to the monetary relief to the worker, the policy changes will protect all workers from disability discrimination."

Read the full article at: <https://www.eeoc.gov/newsroom/design-and-integration-inc-will-pay-25000-settle-eeoc-disability-discrimination-lawsuit>



ADA CORNER

TREEHOUSE FOODS TO PAY \$50,000 AND PROVIDE BENEFITS TO SETTLE EEOC DISABILITY DISCRIMINATION SUIT

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

ATLANTA – Treehouse Foods, Inc. / Treehouse Foods Private Brands, Inc., a food products manufacturer in Forest Park, Ga., will pay \$50,000 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 Treehouse Foods denied its 19-year employee's request for intermittent unpaid leave as an accommodation to receive treatment for her disabilities. Instead, the EEOC said, the company failed to engage in the required interactive process and assessed attendance infraction points to the employee under a rigid attendance policy. Treehouse Foods then fired the employee for exceeding the permissible number of attendance points, the EEOC said, despite the fact she provided medical excuses for her absences and despite the fact the leave was later approved by Treehouse Foods' leave administrator.

Under the consent decree resolving the lawsuit, Treehouse Foods will pay \$50,000 in monetary damages to the employee. Additionally, the company will award the employee her full pension and retirement benefits. Treehouse Foods also agreed to regular reporting, monitoring, annual training, updating and re-distribution of its ADA policies, and notice posting.

"An employer's refusal to accommodate an employee who requests a defined period of intermittent medical leave for treatment of a disability -- which would permit the employee to return to work in the immediate future -- is a widely recognized violation of the law," said Marcus G. Keegan, regional attorney for the EEOC's Atlanta District Office. "The EEOC is pleased that the employee here has been compensated and that Treehouse Foods agreed to update and distribute its ADA policy as well as further train its employees on its obligations under the ADA. This company will be better equipped to respond next time an employee seeks intermittent leave as an accommodation for a disability."

Read the full article at: <https://www.eeoc.gov/newsroom/treehouse-foods-pay-50000-and-provide-benefits-settle-eeoc-disability-discrimination-suit>



ADA CORNER

EEOC SUES SYMPHONY OF JOLIET FOR PREGNANCY AND DISABILITY DISCRIMINATION

Nursing Home Required Pregnant Employees to Disclose Medical Information and Failed to Provide Them With Reasonable Accommodations, Federal Agency Charged

CHICAGO – Symphony of Joliet, a nursing home, rehabilitation center and long-term residential care facility in Joliet, Ill., violated federal civil rights laws by disadvantaging pregnant employees in various ways, U.S. Equal Employment Opportunity Commission (EEOC) charged in a lawsuit it filed.

Julianne Bowman, the district director of the EEOC's office in Chicago, said that the EEOC's pre-suit investigation revealed that Symphony had a written policy that required pregnant women to disclose their pregnancies. There was no similar written policy requiring other, non-pregnant employees to disclose medical information. Further, pregnant employees were forced to get doctor's notes indicating that they could work without restrictions, even if they were not asking for an accommodation. Pregnant employees who did have restrictions and who had not worked for Symphony for a year were fired, and Symphony categorized them as ineligible for rehire.

"This kind of disparate treatment of pregnant employees backed up by written employment policies is unlawful discrimination, plain and simple," said Bowman.

The EEOC filed suit against Symphony after first attempting to reach pre-litigation settlement through its conciliation process. The case (EEOC v. Symphony of Joliet Civil Action No. 1:21-cv-02978) was filed in the U.S. District Court of Illinois, Eastern Division and assigned to Judge Andrea R. Wood. The EEOC is seeking full relief, including back pay, reinstatement for affected individuals, compensatory and punitive damages, and non-monetary measures to correct Symphony's practices going forward.

"Pregnant women are frequently subjected to harmful, paternalistic stereotypes," said Gregory Gochanour, regional attorney of the EEOC's Chicago District Office. "Pregnancy is no reason for an employer to assume that an employee cannot continue to work, nor is it a blank check for employers to seek invasive medical information or to subject pregnant employees to less favorable employment conditions than their non-pregnant co-workers."

Read full article: <https://www.eeoc.gov/newsroom/eeoc-sues-symphony-joliet-pregnancy-and-disability-discrimination>



DIVERSITY AND INCLUSION TED TALK

3 WAYS TO BE A BETTER ALLY IN THE WORKPLACE



Melinda Epler

We're taught to believe that hard work and dedication will lead to success, but that's not always the case. Gender, race, ethnicity, religion, disability, sexual orientation are among the many factors that affect our chances, says writer and advocate Melinda Epler, and it's up to each of us to be allies for those who face discrimination. In this actionable talk, Epler shares three ways to support people who are underrepresented in the workplace. "There's no magic wand for correcting diversity and inclusion," she says. "Change happens one person at a time, one act at a time, one word at a time."

https://www.ted.com/talks/melinda_epler_3_ways_to_be_a_better_ally_in_the_workplace



Meetings & Trainings

Knowing the Laws and Avoiding the Pitfalls Webinar

Hosted by: EEOC Training Institute

July 15, 2021

12:30-4:00 pm

Baltimore,, MD

Register:

https://eeotraining.eeoc.gov/profile/web/index.cfm?PKwebID=0x387427362&utm_content=&utm_medium=email&utm_name=&utm_source=govdelivery&utm_term=&varPage=location

SHRM Annual Conference and Expo

September 9—12, 2021

Las Vegas and Virtually

Register: https://store.shrm.org/annual?_ga=2.46359783.138174841.1623072647-879834997.1576596327&_gac=1.128074494.1622584509.CjwKCAjwtddeFBhBAEiwAKOly58uRVdFaKEUzVDHJEqGIY3JeLZo_jlFO_4kgRfPCTAn7PU0F4xcoohoCWhoQAvD_BwE

Mid-Atlantic ADA Conference

September 21—23, 2021

Baltimore,, MD

Register: <https://web.cvent.com/event/be683499-4795-4fdb-a485-9451a52e9e5a/summary>

Resources for Human Virtual Conference

Hosted by: Lattice

September 22, 2021

Information: https://lattice.com/rfh-virtual2021?utm_source=email&utm_medium=email&utm_campaign=wbr-lat-rfhvirtual2021&attribution=lattice-mktg#speakers

Dealing with Microaggressions as an Employee

Hosted by: LinkedIn Learning

Information: <https://www.linkedin.com/learning/dealing-with-microaggression-as-an-employee>

Free Diversity and Discrimination Prevention Training

Hosted by: MCCR

Location: Virtual Instruction Available

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

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2021 DIVERSITY CALENDAR

July 2021

7/1 Canada Day
7/4 Independence Day
7/18 Nelson Mandela International Day
7/26 Disability Independence Day
7/30 International Day of Friendship

August 2021

8/26 Women's Equality Day

September 2021

Hispanic –Latino Heritage Month (Sept. 15 - Oct. 15)
National Guide Dog Month

9/6 Labor Day
9/16 Mexico Independence Day
9/6-8 Rosh Hashanah
9/21 International Day of Peace
9/25 Little Rock Central High School Integration



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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