

EEO CONNECTION

Statewide EEO Coordinators Message

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Have you ever thought about how important your role as an EEO professional is to your organization? The core of your job is to ensure that all state employees are provided a fair and equal opportunity to pursue their careers in an environment free of discrimination, harassment and retaliation; ensure that all applicants for state employment are given a fair and equal opportunity to compete for positions; and protect your employer from liability. While we expect employees to come to us with their concerns that may not always happen. It is important that we keep our eyes wide open and our ears to the ground because not all workplace problems will come to us as we think they should. In meetings and during conversations with colleagues, be mindful of individuals' remarks. We don't want inappropriate or unprofessional behavior hindering the organization from accomplishing its mission or dampening the morale of the work environment.

Not everyone is comfortable going to the EEO office and filing a complaint. It is imperative that directors, managers and supervisors understand the workplace culture, and proactively address concerns before they become problems. It is important that our leaders understand and implement EEO principles, and embrace positive workplace practices. These strategies are the key to avoiding lawsuits. They are also the key to a positive and productive workplace.

At all cost, please avoid having to pay big bucks in a discrimination lawsuit as King-Lar Company and Pegasus Building Services. Turn the pages to read about these cases. Also, read about the agreement reached between the Justice Department and the Washington Metropolitan Area Transit Authority in the ADA Corner. Have a question? Get an answer. Read the Q&A in our **Ask the OSEEOC Team** section on page 4. Test your knowledge and take the diversity quiz on page 11. The EEO Retreat is coming this July. Please make plans to attend. Read more about it on page 8. There is so much more to read and learn, so turn the page and keep reading.

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.



NEW OSEEOC EEO Compliance Intern



The OSEEOC is proud to welcome Mr. Tavon Payne to our team. Tavon will serve as an Equal Employment Opportunity Compliance Intern in our office for the next few months. He will work on various projects that will afford him exposure to the work that State of Maryland EEO professionals are required to perform on a daily basis. Tavon is a student at the University of Baltimore. We are very excited to have him join our team.

- OSEEOC TEAM

Ask the OSEEOC Team—**NEW SECTION**

The OSEEOC Team has incorporated this new section of the newsletter to allow our readers to ask anonymous questions and get answers.

1. QUESTION

Are members of the OSEEOC team willing to provide one-on-one in person guidance to Fair Practices Officers and Equal Employment Opportunity Officers if they need help?

OSEEOC ANSWER: Yes. Reach out to our office at 410-767-3800 to schedule a date and time to meet.

2. QUESTION

If an employee requests an ADA Reasonable Accommodation and later cancels the request, how should it be handled?

OSEEOC ANSWER: The designated ADA Coordinator should:

- Speak with the employee to understand why they decided to retract the request.
- Remind the employee of their right to request a Reasonable accommodation pursuant to State and Federal disability laws and policies.
- Assure the employee that retaliation is prohibited.
- Take copious notes and include the information in the employee's file.
- Finally, issue the employee a letter referencing their request to cancel the ADA reasonable accommodation request and explain the right to reactive the request at any time.

If you have a question please be sure to email Glynis Watford at glynis.watford@maryland.gov. Your question may be featured in the next newsletter.

NOTEWORTHY RULINGS

King-Lar Company Will Pay \$325,000 To Settle EEOC Color and National Origin Discrimination Lawsuit

CHICAGO - Decatur, Ill.-based company King-Lar will pay \$325,000 to settle a federal discrimination lawsuit filed by the U.S. Equal Employment Opportunity Commission (EEOC), the federal agency announced.

In its lawsuit, the EEOC accused King-Lar, which provides custom sheet metal and HVAC work, of allowing its white employees to verbally harass and threaten a black employee of Puerto Rican origin, which ultimately led to a brutal physical assault. The national origin and color harassment allegedly included slurs such as "s..c," "n....r," "Mexican n----r," and "wetback." The EEOC also claimed that King-Lar management, including one of its owners, knew about the discrimination and failed to act to stop it.

Harassment against an employee because of his race, color or national origin violates Title VII of the Civil Rights Act of 1964. EEOC filed suit against King-Lar on Aug. 19, 2015, after first attempting to reach a pre-litigation settlement through its conciliation process. *EEOC v. King-Lar, Co*, Civil Action No. 3:15-cv-03238, is pending before U.S. District Judge Bruce in U.S. District Court for the Central District of Illinois, Urbana Division.

"As this case makes clear, tolerating harassment can have serious consequences," said EEOC Regional Attorney Gregory Gochanour. "The EEOC will defend the rights of all employees to be free from this sort of cruel misconduct in the workplace."

Julie Bowman, district director of the EEOC's Chicago District Office, added, "We are grateful that the employee had the courage to bring this to the EEOC's attention. This kind of harassment is unconscionable and unlawful, and the EEOC is here to fight it."

In addition to providing for the \$325,000 in monetary relief, the consent decree settling the suit mandates that King-Lar have a system where employees can complain anonymously online or to a number; train its employees on harassment and discrimination; and make clear that King-Lar will take allegations of discrimination seriously.

Read more at <https://www.eeoc.gov/eeoc/newsroom/release/3-30-17.cfm>



NOTEWORTHY RULINGS

Wisconsin Employer Resolves EEOC Case Involving Wellness Program and Retaliation

MINNEAPOLIS -- The U.S. Equal Employment Opportunity Commission (EEOC) announced that it has resolved its suit against Orion Energy Systems, a Manitowoc, Wis., lighting company, challenging a wellness program under the Americans with Disabilities Act (ADA) and alleging that the employer retaliated against an employee who objected to the program by terminating her.

In its suit, the EEOC contended that Orion instituted a wellness program that unlawfully required medical examinations and made disability-related inquiries. When an employee, Wendy Schobert, declined to participate in the program, Orion shifted responsibility for payment of the entire premium for her employee health benefits from Orion to Schobert. Shortly thereafter, Orion fired Schobert, the EEOC said.

The EEOC maintained that Orion's wellness program violated the Americans with Disabilities Act (ADA) as it was applied to Schobert, and that Orion unlawfully retaliated against Schobert because of her good-faith objections to the wellness program. The EEOC filed its lawsuit in U.S. District Court for the Eastern District of Wisconsin (*EEOC v. Orion Energy Systems, Inc.*, No. 14-CV-1019 E.D. WI) after first attempting to reach a pre-litigation settlement through its conciliation process.

Upon cross-motions for summary judgment, the district court rejected the employer's argument that the insurance safe-harbor provision in the ADA immunizes wellness plans from ADA scrutiny. The court concluded that the EEOC's recently issued regulations on the ADA's safe-harbor provision were within the EEOC's authority, and further held that the safe-harbor provision did not apply even without regard to the new regulations. However, the court found that the wellness plan was lawful because it concluded that the employee's decision whether to participate was voluntary under that law existing prior to the regulations, which were not applicable in the case.

The court also held that there were issues of fact regarding whether Schobert was fired because of her opposition to the wellness plan, and indicated that the case would be set for trial. The consent decree approved resolved these issues.

Read more at <https://www.eeoc.gov/eeoc/newsroom/release/4-5-17a.cfm>



EEO SPOTLIGHT

Justice Department Settles Immigration-Related Discrimination Claim Against California Janitorial Companies

The Justice Department reached an agreement with Paragon Building Maintenance, Inc. (Paragon) and Pegasus Building Services Company, Inc. (Pegasus), related janitorial companies headquartered in Long Beach, California. The settlement resolves the department's investigation into whether the companies violated the Immigration and Nationality Act (INA) by discriminating against work-authorized immigrants when checking their work authorization documents.

The department concluded, based on its investigation, that Paragon and Pegasus routinely requested that lawful permanent residents show their Permanent Resident Cards to prove their work authorization while not requesting specific documents from U.S. citizens. Lawful permanent residents often have the same work authorization documents available to them as U.S. citizens, and may choose other acceptable documents besides the Permanent Resident Card to prove they are authorized to work. The investigation further revealed that the companies required lawful permanent resident employees to re-establish their work authorization when their Permanent Resident Cards expired, even though federal rules prohibit this practice. The antidiscrimination provision of the INA prohibits employers from subjecting employees to unnecessary documentary demands based on the employees' citizenship or national origin.

"Employers may not discriminate against employees when verifying that their employees are authorized to work in the United States," said Acting Assistant Attorney General Tom Wheeler of the Civil Rights Division. "We encourage employers everywhere to familiarize themselves with their legal obligations, as Paragon and Pegasus have committed to do by reaching this settlement."

Under the settlement, Paragon and Pegasus will pay a civil penalty of \$115,000 and pay up to \$30,000 to compensate any eligible workers who lost pay due to these documentary practices. The companies also have agreed to post notices informing workers about their rights under the INA's antidiscrimination provision, train their human resources personnel, and be subject to departmental monitoring and reporting requirements.

Read more at: <https://www.justice.gov/opa/pr/justice-department-settles-immigration-related-discrimination-claim-against-california-0>



EEO SPOTLIGHT

Why The 2017 EEO Retreat Should Be Apart of Your Professional Development

Mark your calendar! This years EEO Retreat will be held Wednesday, July 12, 2017 through Friday, July 14, 2017. The event will be held at St. Mary's College.

The purpose of the retreat is to bring together Equal Employment Opportunity Officers, Fair Practices Officers, ADA Coordinators, Human Resources Officers and other professionals from various state agencies, colleges and universities to educate on EEO trends, discuss any challenges, provide legal updates and share new initiatives to improve our EEO programs.

There aren't any conferences like this in Maryland that provide knowledge and exposure akin to what this retreat will offer. Network with fellow EEO professionals and attend breakout sessions facilitated by experts in the field on topics such as sex discrimination, diversity and inclusion, disability reasonable accommodation, and mental health in the workplace, just to name a few.

This three day event is the professional development you need to keep your EEO skills sharp and up-to-date to ensure your agency is in compliance with federal and state laws.

- OSEEOC TEAM



ADA CORNER

Justice Department Reaches Agreement With Washington Metropolitan Area Transit Authority to Resolve Disability Discrimination Complaint

The Justice Department filed a proposed consent decree to resolve a complaint that the Washington Metropolitan Area Transit Authority (WMATA) discriminated against a job applicant on the basis of his disability, in violation of the Americans with Disabilities Act (ADA).

The department's complaint alleges that WMATA extended a job offer as an elevator/escalator parts supervisor to an applicant but withdrew the offer upon learning that the applicant had epilepsy. The complaint further alleges that WMATA failed to discuss with the applicant how his disability might affect his ability to do the job or whether there were any available accommodations that would allow him to do the job.

As part of the consent decree, which is subject to approval by the U.S. District Court for the District of Columbia, WMATA will institute new policies to ensure that employees and job applicants with disabilities have the opportunity to confer with WMATA about their limitations as well as opportunities for reasonable accommodation in the workplace. WMATA will also ensure that supervisors are fully trained in those policies. In addition, WMATA has agreed to pay \$175,000 in compensatory damages to the applicant. This matter was based on a referral from the Equal Employment Opportunity Commission's Washington Field Office, which completed the initial investigation of the facts.

"The ADA mandates that job applicants with disabilities receive fair and equal consideration in the hiring process," said Acting Assistant Attorney General Tom Wheeler of the Justice Department's Civil Rights Division. "This settlement provides for new hiring policies that will protect against discriminatory practices and safeguard the rights of all individuals with disabilities who seek employment with WMATA. We commend WMATA for agreeing to revise its policies and offering to compensate the job applicant."

Read more at <https://www.justice.gov/opa/pr/justice-department-reaches-agreement-washington-metropolitan-area-transit-authority-resolve-0>



ADA CORNER

Disability Services Company to Pay \$100,000 to Settle EEOC Disability Discrimination Lawsuit

PHOENIX - Valley Life, a disability support services company, will pay \$100,000 and furnish other relief to settle a disability discrimination lawsuit filed by the U.S. Equal Employment Opportunity Commission (EEOC), the federal agency announced today.

According to the EEOC's suit, Valley Life had a practice of firing employees with disabilities who needed extended leave or reassignment rather than providing them with reasonable accommodations as required under federal law. The EEOC alleged that Valley Life simply terminated people who had exhausted their paid time off and/or any unpaid leave for which they were eligible under the Family Medical Leave Act (FMLA) rather than determine if there was a reasonable accommodation that would allow them to continue to work.

The EEOC further charged that Valley Life did not engage in any kind of back-and-forth dialogue with the employees to explore whether reasonable accommodations were possible. For example, the agency said Valley Life could have reassigned the employees to other positions, provided additional leave, or provided other kinds of accommodations such as a shift change or assistance with lifting. The EEOC also alleged that Valley Life commingled medical records in employee personnel files and failed to keep these medical records confidential.

All this alleged conduct violates the Americans with Disabilities Act (ADA), which protects workers from discrimination based upon disability and requires employers to provide reasonable accommodations to the known physical or mental impairments of disabled employees unless doing so would cause an undue hardship. Moreover, the ADA requires employers to keep employees' medical information confidential and separate from other personnel records.

Read more at <https://www.eeoc.gov/eeoc/newsroom/release/3-28-17.cfm>



DIVERSITY QUIZ

1. Pay equality is no longer an issue today.

True _____ False _____

2. A sports car in a handicapped parking spot is obviously someone parking illegally and cheating the system.

True _____ False _____

3. Sexual harassment is always a man harassing a woman.

True _____ or False _____

4. Whistling at a woman at work is a compliment or simple flirting and not considered inappropriate behavior for the workplace.

True _____ or False _____

5. In the State of Maryland, age discrimination is prohibited regardless of your age.

True _____ or False _____

1. False (Women in fulltime jobs still earn only about 77% of their male counterparts earnings).
2. False (The make and model of a vehicle is in no way relevant to its drivers physical abilities or disabilities).
3. False (The victim as well as the harasser may be a woman or a man. The victim does not have to be of the opposite sex).
4. False (Street harassment isn't flirtation or a simple compliment. Women regularly report obscene comments, and when they don't respond, they're often insulted and threatened).
5. True (Maryland Anti Discrimination law prohibits age discrimination regardless of one being older or younger than the age of 40).

Answers:

MEETINGS & TRAININGS

April 2017

Multiple Perspectives on Access, Inclusion and Disability, 17th Annual Conference

Wednesday, April 12, 2017

9:00 A.M.

Register at <http://www.adainfo.org/training/multiple-perspectives-access-inclusion-and-disability-17th-annual-conference>

Chesapeake Human Resource Association—Annual Spring Conference

Thursday, April 13, 2017

Register at <http://www.chra.com/events/EventDetails.aspx?id=878185&group=>

Toward Equity in the Arts—The Walters Art Gallery

Thursday, April 13, 2017

7:00 P.M.—9:00 P.M.

Register at <https://thewalters.org/events/event.aspx?e=4735>

University of Maryland Disability Summit

Friday, April 21, 2017

9:00 A.M.

Register at <http://www.adainfo.org/training/university-maryland-disability-summit>

Accessibility in Existing Facilities: Title II and Title III of the ADA

Wednesday, April 26, 2017

2:00 P.M.—3:30 P.M.

Register at <http://www.adainfo.org/training/accessibility-existing-facilities-ii-iii>

May 2017

VCU-RRTC Webinar Series: Job Site Accommodations

Thursday, May 11, 2017

2:00 P.M.

Register at <http://www.adainfo.org/training/vcu-rrtc-webinar-series-job-site-accommodations>

National ADA Symposium

Sunday, May 14, 2017

1:00 P.M.

Register at <http://www.adainfo.org/training/national-ada-symposium-1>

June 2017

ADA Coordinators Meeting

Tuesday, June 13, 2017

201 W. Preston Street, L2

9:30 A.M.—11:30 A.M.

Topic—TBD

DIVERSITY CALENDAR

April 2017 (Autism Awareness Month)

April 2—World Autism Awareness Day

April 12—Anniversary of First Man in Space

April 16—Easter

April 21—23 Global Youth Service Day

April 27—Take Our Daughters & Sons to Work Day

May 2017 (Jewish American Heritage Month)

May 1—5 National Teacher Appreciation Week

May 5—Cinco de Mayo

May 9—National Teacher Day

May 14 – Mothers Day

May 17— Anniversary of School Desegregation Ruling

May 29 – Memorial Day

June 2017 (Women’s History Month)

June 5 —World Environment Day

June 14—Flag Day

June 18—Fathers Day

May 27— June 25— Ramadan

June 19– Juneteenth

RESOURCES FOR EEO PROFESSIONALS

Division of Rehabilitation Services (DORS)

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

Department of Labor

[http://www.dol.gov/](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/](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>



OSEEOC CONTACT INFORMATION

Glynis Watford

Statewide EEO Coordinator
Glynis.watford@maryland.gov
410-767-4061

Nicole Webb

Senior EEO Compliance Officer
Nicole.webb@maryland.gov
410-767-4761

Debra Mack

EEO Compliance Officer
Debra.mack1@maryland.gov
410-767-1013

Norma Belton

EEO Compliance Coordinator
Norma.belton@maryland.gov
410-767-4735