Statewide EEO Coordinators Message

As EEO professionals, we sometimes get frustrated when we work so hard to educate our staff on fair employment practices and inform them of their responsibility to uphold these practices in pursuit of a discrimination free work environment; then, a complaint or two or three comes to our attention. Keep in mind that our work at educating staff is not in vain and what we do makes a difference. Not all complaints are true violations and most can be resolved by actively listening to a person’s concerns, looking into their issues, and providing proper follow up. Giving the proper attention to every concern that comes our way makes our job that much more rewarding.

Just as educating our workplace staff on fairness and equality is important, it is even more important for you to know and understand the information that you are delivering. The upcoming Statewide EEO Retreat is the perfect opportunity to advance your learning to better serve your diverse population. This EEO conference is being held July 10-12, 2019 on the beautiful campus of St. Mary’s College of Maryland in St. Mary’s City, Maryland. For more information, please click this link EEO Retreat 2019. Come and help us commemorate 10 years of educating, empowering, and leading the State government workforce.

This newsletter is filled with valuable EEO news and information. We have spotlighted EEO professional Leon Patterson from Maryland Department of Transportation-Maryland Aviation Administration. Read how Leon began his career in equal opportunity on page 3. In the Noteworthy Rulings section, read how some employers were hit hard in the pocket by their action or inaction to employee complaints about discrimination, beginning on page 5. On page 8, read the highlights of two court cases in which the judge failed to accept the employer’s affirmative defenses. Learn how to avoid making such mistakes. Take our diversity quiz on page 13 and stay updated on upcoming EEO related meetings, conferences and webinars on page 14.

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.
Leon Patterson began working at the Maryland Department of Transportation, Maryland Aviation Administration (MAA) on July 19, 2017, as the EEO Compliance Officer and ADA Coordinator. MAA owns and operates the Baltimore Washington International Airport and Martin State Airport.

Leon’s tenure in the Equal Employment Opportunity field began while he was serving in the U.S. Coast Guard as an Equal Opportunity Advisor to three (3) flag level Admirals. His first civilian EEO opportunity job was with the Maryland Department of Transportation, State Highway Administration. He moved on to the federal Government for a tenure with the U.S. Army Chemical Material Agency as the EEO Officer and Disability Program Manager. Leon pursued his graduate level education and completed master’s degrees in Conflict Negotiation/Conflict Management and Public Administration at the University of Baltimore. He then worked as the Anti-Harassment Program Manager at the National Archives and Records Administration. Over his 15 year career working in the EEO profession, Leon has found that training and educating managers, supervisors and employees is rewarding and beneficial because communicating EEO laws is imperative to having a cohesive workforce. He has learned early from his training days at the Defense Equal Opportunity Management Institute (DEOMI) that “EEO equals Readiness”. As an EEO professional, Leon provides these words of wisdom: “Creditability is essential and the lack of communication is the foundation of most EEO conflicts”. 
1. **QUESTION**
Is Sexual Harassment Prevention Training required for all newly hired employees, even if they received training prior to joining state government?

**OSEEOC ANSWER:**
Yes, all newly hired employees with the State of Maryland are required to complete Sexual Harassment training within six months of employment.

2. **QUESTION**
I have two employees in my State agency (Department) who will be conducting Sexual Harassment Prevention Training. Do they need to go through the prerequisite 1/2 day course?

**OSEEOC ANSWER:**
Yes. They will need to attend the 1/2 day workshop and then the two day train the trainer session also. Please go to the Maryland Commission on Civil Rights website to learn of the dates of the upcoming 1/2 day workshops.

3. **QUESTION**
Must you be employed with the State of Maryland to attend the 2019 EEO Retreat?

**OSEEOC ANSWER:**
The targeted audience is state government employees; however, invitations may be extended to professionals in other sectors. Feel free to contact the OSEEOC team to inquire further about this event.

4. **QUESTION**
Do State agencies (Departments) have to submit the EEO-1 Report to the Federal government?

**OSEEOC ANSWER:**
No. The EEO-1 Report is filed by private employers. State and Local governments file the EEO-4 Report. The Office of the Statewide EEO Coordinator is responsible for compiling data and filing the EEO-4 report with the Federal EEOC on behalf of Maryland State government.
NOTEWORTHY RULINGS

STANLEY BLACK & DECKER WILL PAY $140,000 TO SETTLE EEOC DISABILITY DISCRIMINATION SUIT

Tool Manufacturer Fired Employee Who Needed Leave for Medical Treatment, Federal Agency Charged

Baltimore – Stanley Black & Decker Inc., a global diversified industrial company, will pay $140,000 and furnish significant equitable relief to settle a federal disability discrimination lawsuit filed by the U.S. Equal Employment Opportunity Commission (EEOC), the federal agency announced.

According to the EEOC’s suit, Stanley Black & Decker fired an inside sales representative, who had exceeded her sales goals and quotas at its Towson, Md., facility in December 2016 for poor attendance. The EEOC charged that the termination violated federal law because the employee had requested unpaid leave for medical appointments and treatment related to her cancer, but the company failed to provide the requested leave as a reasonable accommodation of her disability. Moreover, the company’s inside sales attendance policy did not provide exceptions for people who need leave as an accommodation to their disabilities.

The Americans with Disabilities Act (ADA) prohibits workplace discrimination based on disability. The ADA requires employers to provide a reasonable accommodation to individuals with disabilities, unless it would pose an undue hardship. The EEOC filed suit (EEOC v. Stanley Black & Decker, Inc., Civil Action No. 1:18-cv-02525) 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 the $140,000 in monetary relief to the employee, the three-year consent decree resolving the suit provides substantial equitable relief, including enjoining Stanley Black & Decker from denying reasonable accommodations or violating the ADA in the future. The company will update its inside sales attendance policy to provide for reasonable accommodations. Stanley Black & Decker will provide annual training at its Towson facility to inside sales managers, supervisors and human resources personnel on the ADA and its reasonable accommodation requirements. The company will report to the EEOC on how it handled any requests for reasonable accommodations and internal complaints of discrimination within its inside sales group. Stanley Black & Decker will post a notice about the settlement and post notices required by EEOC regulations. It will also provide a positive reference for the employee.

NOTEWORTHY RULINGS

JUSTICE DEPARTMENT OBTAINS $600,000 SETTLEMENT IN SEXUAL HARASSMENT LAWSUIT AGAINST NORTH CAROLINA PROPERTY OWNER

The Justice Department announced a settlement with Robert Hatfield to resolve a lawsuit alleging that he violated the Fair Housing Act and the Equal Credit Opportunity Act by subjecting 17 actual and prospective female residents of homes he owned in Wilkes County, North Carolina, to sexual harassment over the course of more than 10 years.

Under the settlement, which the parties filed with the U.S. District Court for the Western District of North Carolina, Hatfield has agreed to pay a total of $600,000, which includes $550,000 in monetary damages to former and prospective residents, as well as a $50,000 civil penalty. The settlement also permanently bars Hatfield from participating in the rental, sale, or financing of residential properties, and requires that he relinquish his ownership interest in all such properties.

“Abusing power and control over housing and credit by committing acts of sexual harassment is an abhorrent and intolerable violation of every woman’s right to equal housing and credit opportunities,” said Assistant Attorney General Eric Dreiband. “The Justice Department, through its Sexual Harassment in Housing Initiative, will continue to aggressively enforce federal anti-discrimination laws against property managers and owners who cause women to feel unsafe in their homes.”

“Using a woman’s need for housing and safety as leverage to obtain sexual favors is behavior that is both illegal and depraved,” said Andrew Murray, U.S. Attorney for the Western District of North Carolina. “Hatfield’s settlement underscores my office’s commitment to continue to vigorously enforce the federal civil rights laws to combat sexual harassment in housing and to hold accountable those who violate these statutes.”

The complaint, filed in 2017, alleged that Hatfield ran a real estate business that involved not only operating residential rental properties, but also selling homes through “owner financing,” meaning he extended credit to individuals to purchase homes that he owned. The lawsuit alleged that he subjected actual and prospective female residents of these homes to sexual harassment by making unwanted sexual advances and comments, groping or otherwise touching their bodies without consent, offering to reduce or eliminate down payments, rent, and loan obligations in exchange for sexual favors, and taking or threatening to take adverse action against residents when they refused or objected to his advances.

NOTEWORTHY RULINGS

PARK SCHOOL OF BALTIMORE WILL PAY $41,000 TO SETTLE EEOC SEX DISCRIMINATION SUIT

School Fired Softball Coach Because He is a Man, Federal Agency Charged

BALTIMORE – Park School of Baltimore, Inc., a private school in Pikesville, Md., will pay $41,000 and furnish significant equitable relief to settle a federal sex discrimination suit filed by the U.S. Equal Employment Opportunity Commission (EEOC), the federal agency announced.

According to the suit, the Park School hired a male as head softball coach in the spring of 2014 and renewed his employment contract as head softball coach in 2015 and 2016. The EEOC charged that despite his satisfactory job performance, in 2017 the Park School told the coach that it would not renew his contract for the 2017 softball season because of its “preference for female leadership.”

Such alleged conduct violates Title VII of the Civil Rights Act of 1964, which prohibits discrimination based on sex. The EEOC filed suit (EEOC v. Park School of Baltimore Inc., Civil Action No.1:18-cv-02319) 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 the $41,000 in monetary damages to the coach, the two-year consent decree resolving the lawsuit provides significant equitable relief, including prohibiting the Park School from engaging in gender discrimination in the future. The Park School will implement a policy prohibiting gender discrimination and retaliation and provide training on federal anti-discrimination laws and the company’s policies. The Park School will also post a notice regarding the settlement and employee rights under Title VII and report any future complaints of gender discrimination to the EEOC.

AFFIRMATIVE DEFENSES 3: TOO LITTLE, TOO LATE

By Meghan Droste, Federal Employment Law Group

“A pair of decisions the Commission¹ issued last fall involving the issue of affirmative defenses...were just too interesting to overlook,” said Meghan Droste of Federal Employment Law Group.

In Sallie M. v. U.S. Postal Service, the complainant alleged that her supervisor subjected her to sexual harassment on a daily basis. See EEOC App. No. 0120172430 (Oct. 16, 2018). The harassment ultimately culminated with unwanted touching while the complainant was out on her postal delivery route. When the complainant reported the harassment, another supervisor told her that the harasser could be dangerous but apparently did not do anything else. After the complainant’s union steward got involved, the agency placed the harasser in non-duty status and initiated an investigation. When the harasser then threatened to rape and kill her, the complainant asked the agency to move her to a different location for her safety. She expressed her willingness to go to any location other than the post office near the harasser’s home. The agency then transferred her to that location in direct conflict with her request.

Although the agency placed the harasser in a non-duty status, investigated the allegations, and ultimately proposed the removal of the harasser, the Commission held that the agency could not successfully assert any affirmative defenses for several reasons. First, the agency failed to take any action when the complainant initially reported the harassment and the management officials denied knowing about the report in their EEO affidavits. The Commission found these denials lacked credibility, in large part because the management officials’ responses to the EEO investigator were short and contained no details. Second, although the agency concluded its investigation within weeks of the union steward’s report of the harassment, the agency waited another two weeks to issue a report and then another month and a half to propose the harasser’s removal. Finally, the Commission found that the agency failed to take proper action to prevent further harassment when it moved the complainant to a location closer to the harasser who had threatened her with physical harm. As a result, the Commission found the agency liable for the sexual harassment as well as for retaliation.

¹ Commission is Equal Employment Opportunity Commission
Affirmative Defenses 3: Too Little, Too Late (Cont.)

The Commission issued its decision in *Isidro A. v. U.S. Postal Service* on the same day as the *Sallie M.* case. See EEOC App. No. 0120182263 (Oct. 16, 2018). In *Isidro A.*, a manager used the n-word and the phrase “you people” during a staff meeting while referring to a group of African-American employees. The complainant and a union steward reported the comments within days of the meeting, but the agency did not initiate its investigation for another three weeks. The investigator issued a report less than two weeks later, finding that the manager admitted to making the statements. The agency waited another three months before issuing a proposed letter of warning in lieu of a 14-day suspension. Ultimately, the agency concluded that although the complainant had been harassed by the manager’s comments, it was not liable because it took prompt and effective corrective action. The Commission rejected the agency’s findings regarding the affirmative defenses. It found that the agency waited too long to initiate the investigation and too long to take any action after the investigator issued a report. The Commission also held that the proposed letter of warning was “a woefully inadequate response” to the harassment. As a result, the Commission concluded that the agency was liable for the harassment.

The main takeaway from these cases is that any corrective action should be prompt — remember waiting for a week or two to start an investigation is not prompt — and effective in correcting what happened and preventing any further harassment. These are key points not just to avoid liability, but also to ensure a productive and safe work environment.

EEO SPOTLIGHT

NYC GUIDANCE FOR DISCRIMINATION BASED ON HAIR AND HAIRSTYLES

The NYC Commission on Human Rights issued legal enforcement guidance on racial discrimination on the basis of hair under the New York City Human Rights Law (NYCHRL). The guidance indicates that natural hair or hairstyles are closely associated with racial, ethnic or cultural identities, and it specifically addresses natural hair or hairstyles most commonly associated with black people because “there is a strong, commonly-known racial association between Black people and hair styled into twists, braids, cornrows, Afros, Bantu knots, fades, and/or locs.” The phrase “Black people” is defined as those who identify as “African, African American, Afro-Caribbean, Afro-Latin-x/a/o or otherwise having African or Black ancestry.” The guidance indicates that grooming policies may implicate other protected classes and religious groups such as Rastafarians, Native Americans, Sikhs, Muslims and Jews.

The guidance provides that grooming policies that ban, limit or otherwise restrict natural hair or hairstyles associated with black people will violate the anti-discrimination provisions of the NYCHRL and may subject an employer to disparate treatment racial discrimination claims. Grooming policies that appear to be facially neutral but have an adverse impact on certain protected classes may give rise to disparate impact racial discrimination claims.

Notably, employers may still maintain grooming policies that require employees to keep a neat and orderly appearance. Employers with specific grooming requirements that are based on health and safety concerns should consider alternatives – such as the use of hair ties, hairnets, head coverings and alternative safety equipment that can accommodate various hair textures and hairstyles – prior to imposing limitations on employees' hairstyles.

Finally, in addition to employers, the guidance extends to public accommodations because the NYCHRL prohibits discrimination in places of public accommodation, including but not limited to public, private and charter schools.

ADA CORNER

**ASURION TO PAY $50,000 TO SETTLE EEOC DISABILITY DISCRIMINATION LAWSUIT**

*Customer Service Support Provider Refused to Hire Applicant Because She Is Paraplegic, Federal Agency Charged*

JACKSON, Miss. - Asurion, LLC, an international customer service support provider for electronic devices based in Nashville, Tenn., has agreed to pay $50,000 and furnish significant relief to settle a federal lawsuit charging disability discrimination brought by the U.S. Equal Employment Opportunity Commission (EEOC), the agency announced.

According to the EEOC's lawsuit, Asurion sought to hire 64 customer care representatives in April 2015 at its Meridian, Miss., location. Lakisha Person applied for a customer care representative position online and was qualified for the position. After reviewing her application, Asurion telephoned Person to discuss her interest in and availability for that position. During her telephone interview, Asurion's interviewer learned that Person is paralyzed from the waist down, and abruptly ended the interview without inquiring into Person's skills or relevant work experience. Person applied three more times for a customer care representative position, but Asurion rejected all of her applications.

Such alleged conduct violates the Americans with Disabilities Act (ADA), which prohibits discrimination based on an applicant's disability. The EEOC filed its lawsuit (Civil Action No. 3:17-cv-336-CWR-FKB) in U.S. District Court for the Southern District of Mississippi, Northern Division on May 4, 2017 after first attempting to reach a pre-litigation settlement through its conciliation process.

In addition to monetary relief, the two-year consent decree settling the lawsuit requires Asurion to provide training to its employees on its obligations under the law and review its anti-discrimination policy as well as modify the policy as necessary. The decree also prohibits Asurion from engaging in any discrimination or retaliation because of disability. The decree requires Asurion to post notices on its bulletin boards informing employees of their right to contact the EEOC if they feel they have been discriminated or retaliated against.

ADA CORNER

ATLAS ENERGY GROUP TO PAY $85,000 TO SETTLE EEOC AGE DISCRIMINATION SUIT

Experienced Production Foreman Fired Because of His Age, Federal Agency Charged

DALLAS – Fort Worth-based Atlas Energy Group LLC has agreed to pay $85,000 and furnish significant relief to settle an age discrimination lawsuit brought by the U.S. Equal Employment Opportunity Commission (EEOC), the federal agency announced.

The EEOC charged that a then 52-year old production foreman with more than 20 years of industry experience was pushed out of his job because of his age by a new, young superintendent. The production foreman was considered “very knowledgeable” by the pumpers and field operators he supervised.

The Age Discrimination in Employment Act (ADEA) protects individuals age 40 and over from employment discrimination because of their age, including discrimination in discharge decisions. The EEOC filed suit in U.S. District Court for the Northern District of Texas (EEOC v. Atlas Energy Group LLC, Civil Action No. 3:17-cv-01582), after first attempting to reach a pre-litigation settlement through its conciliation process.

A three-year consent decree settling the suit was signed by U.S. District Court Judge David C. Godbey on April 19, 2019. In addition to paying $85,000 in monetary relief to the production foreman, the decree enjoins Atlas Energy Group from engaging in age discrimination in the future. The company has also agreed to provide training on age discrimination to its managerial and human resources employees, post a notice of employee rights under the ADEA, and report future complaints of age discrimination to the EEOC.

"Casting off long-term employees – who could otherwise continue to be solid contributors – based on age alone is unlawful and unacceptable,” said EEOC Regional Attorney Robert Canino. “The EEOC will continue to combat this practice.”

DIVERSITY EXERCISE

1. Diversity encompasses not only recognized differences such as race, sex and religion, but also individual differences, such as a social style and mode of dress. True or False

2. The goal of diversity is to erase individual differences from our minds, workplace and society. True or False

3. Diversity in the workplace is the mixing of differences in race and gender. Other differences are generally not a concern and not part of valuing diverse workplaces. True or False

4. When we speak of accepting diversity in the workplace, we are referring to the fair distribution of jobs of specific types among all represented groups of employees within the workforce. True or False

5. One effective way to take control of your biases at work is to join social groups so you get to know people better True or False

Answers

1. True
2. False. The goal of diversity is not to erase individual differences, but to embrace and value them.
3. False. Diversity includes not only race and gender, but also age, nationality, disability, religion, lifestyle choices, sexual orientation, and more.
4. False. When we speak of workplace diversity, we mean that all jobs and positions are equally divided among the different profiles of employees.
5. False. One way to control your biases is to focus on the message rather than the manner in which it is delivered, and to understand the different profiles of employees and how they may influence behavior.
Meetings & Trainings

May 2019

**Movie and Discussion (On the Basis of Sex)**
Hosted by: Statewide EEO Coordinator’s Office
Date: May 16, 2019
Time: 11:30 a.m.— 4 p.m.
Location: 10302 Grand Central Avenue, Owings Mills, MD
Register at: https://forms.gle/25HT88G3BoeMSoBR8

June 2019

**ADA Coordinator’s Meeting**
Hosted by: Statewide EEO Coordinator’s Office
Date: June 11, 2019
Time: 9:30 a.m. — 11:30 a.m.
201 W. Preston Street, Lobby Level (L-4)

**Equity Speaker Series LGBTQ+ Safe Spaces Workshop**
Hosted by: Maryland Commission on Civil Rights
Date: June 18, 2019
Time: 9 a.m.—1 p.m.
9820 Patuxent Woods Drive, #212
Columbia, MD 21046
For more information: Contact the MCCR

**ADA Audio Conference: Effective Communication: What Does That Mean?**
Hosted by: ADA National Network and the Great Lakes ADA Center
Date: June 25, 2019
Time: 2:00 p.m. - 3:30 p.m.
Register at: https://www.accessibilityonline.org/ADA-Audio/session/?id=110713

July 2019

**2019 Statewide EEO Retreat**
Hosted by: St. Mary’s College of MD and Statewide EEO Coordinator’s Office
Dates: July 10-12, 2019
47645 College Drive
St. Mary’s City, MD 20686
Register at: EEO Retreat Registration Link

**EEOC Excel Training Institute**
Dates: July 30-August 1, 2019
Atlanta, GA
More information at: EXCEL 2019

Webinar
**Intersection of LGBT Identity and Diverse Abilities: Supporting all of us – Thursday, March 25, 2019-Webinar**
Presented by Out and Equal Workplace Advocates
For more information: http://outandequal.org/virtual-summit-series-archives-2019/
2019 DIVERSITY CALENDAR

MAY 2019

Jewish and Asian-Pacific American Heritage Month

5/5 Cinco de Mayo
5/5-6/4 Ramadan
5/12 Mother’s Day
5/17 Anniversary of Brown v. Board of Education of Topeka
5/25 Memorial Day

JUNE 2019

6/3-6/4 Eid al-Fitr (Muslim feast day celebrating end of Ramadan)
6/5 World Environment Day
6/14 Flag Day
6/16 Father’s Day
6/19 Juneteenth or Emancipation Day

JULY 2019

7/1 Canada Day
7/4 Independence Day/Fourth of July
7/18 Nelson Mandela International Day
7/26 Anniversary of signing of the Americans with Disabilities Act
7/30 International Day of Friendship
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/
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