



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

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Issue II

EEO CONNECTION

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Coordinator's Message

"OSEEOC and You... taking action with commitment"

Well, we are half way through the year which is quickly moving to an end. In keeping on pace, the OSEEOC has lots of plans for the remainder of the year. Some of the upcoming training highlights are:

- Recruitment and Interview processes;
- State Reasonable Accommodation procedures;
- EEO sign-off procedures on personnel actions;
- Overview of the State's EEO program; and
- Harassment/sexual harassment training for managers and agency staff members.

Many thanks to those that attended the EEO Symposium in

May 2009. It was a great success. A review of EEO symposium attendee surveys provided us with positive and constructive feedback on the topics and presentations. It is always a pleasure to have the EEO Community professionals connect and discuss some of the important issues and challenges we face. The information, team spirit and partnerships that were cultivated at the symposium undoubtedly enriched our knowledge and experience in the Equal Employment Opportunity field.

I believe that the theme for this event, "OSEEOC and you... taking action with commitment," passionately speaks to our motivation to act on our commitment to eliminate discrimination and promote diversity and inclusion in our workplaces. This theme further enhances our desire to remain a part of

the team and support these great efforts. Over the past couple of years, I have seen the accomplishments in the State EEO Program as a result of our collective efforts at improving existing processes and developing new practices. We need to embrace changes and continue to strive for regulatory conformity and effective communication. I end this message with the words of Vince Lombardi, "Individual commitment to a group effort – that is what makes a team work, a company work, a society work, a civilization work."

Glynis Watford
Statewide EEO
Coordinator

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Bills Signed by Governor O'Malley

On May 7, 2009, the Honorable Martin O'Malley, Governor signed the following EEO related legislation:

SB 81—State Personnel—Maryland Whistleblower Law - Confidentiality of Information obtained during investigation of complaints.

Establishes that information obtained during the investigation of complaints conducted under the Maryland Whistleblower Law is confidential within the meaning of specified provisions of law.

SB 670—Discrimination in Employment—Expansion of Disability Rights

Altering the definition of disability applicable to provisions prohibiting discrimination in employment; prohibiting an employer from failing or refusing to make reasonably accommodations for known disabilities of otherwise qualified employees; providing that an employer is not required to reasonable accommodate an employee's disability if the accommodation would cause undue hardship on the employer's business; and prohibiting retaliation against specified individuals. This law will be in effect on October 1, 2009.

SB 0562—Labor and Employment—Flexible Leave.

Altering a provision so as to prohibit an employer from discharging, demoting, suspending, disciplining, or otherwise discriminating or threatening to take any of those actions against an employee because an employee has taken specified leave, has opposed an unlawful practice, or has participated in a specified proceeding; establishing that the purpose for provisions of the Flexible Leave Act is to allow an employee to use specified leave under specified conditions to care for a family member who is ill; etc. This is noted as an Emergency Bill.

"The time is always right to do what's right"

Martin Luther King, Jr.

SPOTLIGHTS

Sotomayor takes oath from Chief Justice Roberts

Sonia Sotomayor became the Supreme Court's newest justice, pledging during a brief ceremony at the high court to defend the Constitution and administer impartial justice. Sotomayor, 55, is the first Hispanic justice and only the third woman in the court's 220-year history. She took the second of two oaths of office from Chief Justice John Roberts in an ornate conference room, beneath a portrait of the legendary Chief Justice John Marshall. Her left hand resting on a Bible that was held by her mother, Celina, Sotomayor pledged to "do equal right to the poor and to the rich."

Minutes earlier, she

swore a first oath in a private ceremony in the room where the justices hold their private conferences. Her 60 or so guests included Justice Anthony Kennedy, White House counsel Greg Craig and other members of the Obama administration team that helped prepare her for her Senate confirmation hearings, family and friends. Roberts, wearing his black judicial robe, said that once the oaths were done, Sotomayor could "begin work as associate justice without delay."

The court is set to hear arguments Sept. 9 in a campaign finance case. The entire court will convene the day be-

fore for a formal ceremony to welcome Sotomayor. Sotomayor has been a federal judge for 17 years. Obama nominated her in May to take the place of Justice David Souter after Souter announced his retirement.

The Senate confirmed Sotomayor's nomination by a 68-31 vote. The oath that Sotomayor took in private is prescribed by the Constitution and required of all federal officials. The second oath, taken in front of a television audience, is spelled out in the 220-year-old federal law that established the federal court system.

There can be no perfect democracy curtailed by color, race or poverty. But with all, we accomplish all, even peace."

W.E.B. DuBois

SPOT LIGHTS cont.

OSEEOC and you...Our Commitment

We would like to thank the EEO Professionals who responded to the recent training assessment survey conducted by the OSEEOC. The assessment provided us information needed to assist enhance your skills and perform your job more effectively. The results reflected a variety of training requests, such as, an overview of the ADA, legal updates, investigative techniques, alternative dispute resolution/mediation, and effective writing techniques. Other notable requests were an overview of the role and responsibility of the EEO Professional, train the trainer, and an overview of the operations of Maryland Commission on Human Relations (MCHR) and the Equal Employment Opportunity Commission (EEOC) as it relates to investigations and

case processing. It is our intent to continue to accommodate your training requests on a consistent basis.

The following online resources are available at low or no cost to aid in promoting your professional development:

- HR.com
- shrm.com (The Society for Human Resources Management)
- trainerstoolchest.com
- neli.org (National Employment Law Institute)
- adainfo.org (DBTAC Mid-Atlantic ADA Center)
- uliveandlearn.com
- dalecarnegie.com (Dale

Carnegie Training Institute)

Please understand that the OSEEOC is committed to ensuring that you receive the tools necessary to do your job, as well as the opportunity to advance your skills and grow in your career.

It is always the goal of the OSEEOC to maintain a positive work environment and encourage teamwork, integrity and commitment to service.

Do not hesitate to contact this office with any questions, concerns or suggestions. We value your input and look forward to providing training, guidance and assistance in building a well diversified workforce for the State of Maryland.

Glynis Watford & Staff

"Stand up for what is right even if you are standing alone."

Unknown

Magistrate Awards \$678,300 to Seven Females

On June 24, 2009, U.S. Magistrate Judge Paul W. Grimm recommended that seven women, members of a class lawsuit filed by the Equal Employment Opportunity Commission (EEOC) against Worthington, Moore and Jacobs, Inc., a Maryland collection agency, receive \$678,3000 in back pay and damages.

According to the compliant filed in September 2004 on behalf of a class of females, the EEOC alleged that the women were

touched inappropriately, propositioned, asked to share hotel rooms on business trips, and endured repeated inappropriate sexual comments from the company's president.

The women further alleged that the company not only turned a deaf ear to their complaints but also retaliated through a variety of adverse employment actions, including harassment, termination, and constructive discharge.

The court will make a final determination on damages and attorney's fees at a later date. EEOC v. Worthington, Moore and Jacobs, Inc., Civil No. L-04-3127, June 24, 2009

Maryland Employment Law Letter

NOTEWORTHY RULINGS

Court Rules Employees Must Prove Age Discrimination

In overturning the district court decision in *Gross v. FBL Financial Services, Inc.*, the Eighth U.S. Circuit Court ruled that employees who sue their employers for age discrimination must prove that age was the cause of an employment decision rather than simply demonstrate age was a factor in the decision. This decision makes it harder for employees to prove age discrimination under the Age Discrimination Employment Act (ADEA). Under the ADEA, an employer can't take an adverse employment action against an employee because of his age.

In the case, Jack Gross sued his employer, claiming he was demoted in

violation of the ADEA. At the trial, the district court instructed the jury to return a verdict for Gross if he proved, by a preponderance of the evidence, that he was demoted and his age was a "motivating factor" in the decision. The court further told the jury that age was a "motivating factor" if it played a part in his demotion. It also instructed the jury to enter a verdict in favor of Gross' employer if it proved that it would have demoted him regardless of his age.

The jury returned a verdict in favor of Gross. However, the Eighth U.S. Circuit Court of Appeals reversed the jury's decision, holding that the jury had been improperly instructed under a standard

established by the U. S. Supreme Court in *Price Waterhouse v. Hopkins* for cases under Title VII of the Civil Rights Act of 1964.

The Supreme Court held that an employee who files ADEA disparate treatment claim must prove, by preponderance of evidence, that age was the "but for" cause of an adverse employment action (i.e., "but for" the employee's age, he wouldn't have been demoted). The Court also ruled that the employer doesn't have to show that it would have taken the same action regardless of age, whether or not the employee produces evidence that age was a motivating factor in the employment decision.

Read more: www.hrhero.com

"If I have seen further than others it's by standing on the shoulders of giants."

Sir Isaac Newton

Supreme Court Rules in Favor of Firefighters in Reverse Discrimination Case

The U.S. Supreme Court released its decision in *Ricci v. DeStefano*, the high-profile discrimination case involved firefighters employed by the city of New Haven, Connecticut. In a 5-4 decision, the Court reversed the Second U.S. Circuit Court of Appeals' decision in favor of New Haven.

In 2003, New Haven administered tests to evaluate which firefighters were most qualified for promotion to vacant lieutenant and captain positions. Since minority candidates scored disproportionately lower on the tests and New Haven

feared a lawsuit by the minority firefighters, it decided to throw the tests out. White firefighters (including one Hispanic firefighter) who received high scores on the test and were denied promotions sued the city, asserting that they were victims of reverse discrimination.

In 2006, a federal district court held that New Haven didn't discriminate against the white firefighters, and a three-judge Second Circuit panel affirmed the district court in a short unsigned opinion. The Supreme Court held that New Haven violated Title VII of

the Civil Rights Act of 1964 by throwing out the tests. Justice Anthony Kennedy, who authored the opinion, stated, "Fear of litigation alone cannot justify the City's reliance on race to the detriment of individuals who passed the examinations and qualified for promotions."

The Court's decision in this case could have a tremendous impact on discrimination and diversity issues in employment law. It could limit employers' liability in situations in which minorities cannot prove they were victims of intentional discrimination.

HR Hero

Community Awareness

H1N1 Flu and Preventive Measures

Governor O’Malley signed an Executive Order declaring a public health emergency in order to ensure that all necessary resources are available should the virus continue to spread with regard to the H1N1 or swine flu issue.

It is still important that citizens exercise precautionary measures to avoid becoming ill or spreading the illness to others.

A new toll-free H1N1 information line has been activated to answer questions that Maryland resident may have about the outbreak: 1-877-MDFLU4U (633-5848). The

service will operate from 9 a.m. to 9 p.m. Monday through Friday and (9 a.m. to 6 p.m. on Saturdays and Sundays. The Department of Health and Mental Hygiene will also accept questions by e-mail at www.swineflu@dhmh.state.md.us.

For updated information, please visit www.maryland.gov.

In the meantime, please take the following precautionary measures to prevent the spread of influenza.

- Wash your hands regularly
- If you are feeling ill, please contact your super-

visor and make arrangements to use sick leave so that other employees are not infected

- If you have special care needs, please make arrangements with your supervisor so that we can best ensure that you can avoid exposure to potential influenza.

Read more at www.pandemicflu.gov

Composed by OSEEOC Staff

Disability History and Awareness Month

Governor Martin O’Malley proclaimed October Disability History and Awareness Month in Maryland. In doing so, he stated:

“Disability History and Awareness Month will serve as an outstanding tool in creating greater awareness, understanding and support for individuals with disabilities,” said Governor O’Malley. “By emphasizing disabilities awareness activities in our school systems, we are working toward a future where every person with a disability is respected and valued as a contributing member of our community.”

In the Executive Order, Governor O’Malley charged all State of Maryland Executive Branch Agencies to annually observe October as Disability History and Awareness Month through activities and events which will draw attention to and increase public aware-

ness of the history of disability rights movement. MDOD will provide information and technical assistance to you as you respond to the Governor’s charge.

MDOD is compiling a list of books, videos and resources. The DBTAC: Mid-Atlantic ADA Center is a good resource, particularly for free videos and other loaned materials and can be contacted at 1-800-949-4232 or on the web at www.adainfo.org.

In addition to the charge to State Agencies, Governor O’Malley also charged local boards of education, through the Maryland State Department of Education (MSDE). MSDE will assist and encourage local boards of education to provide instruction in the history of disabilities, people with disabilities, and the

disability rights movement during October of each year. Supplementing existing lesson plans; holding school assemblies; hosting disability-focused film festivals; inviting individuals to speak at school programs; and recognizing at the local level students and citizens who have life experiences with disabilities.

Institutions of higher education, including the University Systems of Maryland, Morgan State University, Saint Mary’s College of Maryland and 16 public community colleges, have also been asked to participate in activities that provide education, awareness and understanding of disability history, people with disabilities, and the disability rights movement.

Courtesy of Maryland Department of Disabilities

Community Awareness

National Hispanic Heritage Month

National Hispanic Heritage Month celebrated from September 15, through October 15. This observance was enacted to recognize the contributions, heritage and culture of Hispanic Americans who trace their roots from Spain, Mexico, Central America, South America and the Caribbean. September 15 was designated as the date to commence

the celebration as it is the anniversary of independence for the five Latin American countries of Costa Rica, El Salvador, Guatemala, Honduras and Nicaragua. It should be noted the Mexico, Chile and Belize declared their independence on September 16, September 18, and September 21, respectively. The observation started in September 1968, as

Hispanic Heritage Week under President Lyndon Johnson and was expanded to a month in 1988, by President Ronald Reagan.

The theme for this year's observation is, "Embracing The Fierce Urgency of Now!"

Composed by OSEEOC Staff

Retirement News

It is with great pleasure that I announce the retirement of Clifford Jones, EEO designee with the Maryland Department of Agriculture. Clifford had been pondering the notion of retiring for sometime and has finally done it. Clifford is engaged in doing what he loves, freelance writing and photogra-

phy. He is currently working on two manuscripts.

Clifford graciously served on the Newsletter Committee and assisted with the 2008 EEO Retreat. Please join me in congratulating Clifford on his outstanding contributions to State government and the

EEO community. Well wishes may be sent to Clifford at cliffordh_jones@verizon.net

Glynis Watford
Statewide EEO Coordinator

Title VII Pop Quiz

Title VII of the Civil Rights Act of 1964, the federal law prohibiting discrimination against workers because of race, color, national origin religion and sex, has been extended to included discrimination on the basis of pregnancy, sex stereotyping , and sexual harassment of employees. Test your knowledge of Title VII by deciding if the following are true or false.

1. If an employer knows of a sexual relationship between a 16-year-old employee and a 33 –year-old employee, it shouldn't get involved and should let the police and the younger employee's parents handle the situation. **T or F**
2. It's OK to fire a male with a very big voice and feminine mannerisms if you feel those attributes would

harm your image with clients. **T or F**

3. An employee announces that he has always felt more like a woman than a man and starts wearing a ladies wig and dresses to work. Although he is biologically a male, he wants to use the women's restrooms, which are used by both employee and the public. You can deny his request. **T or F**

4. A babysitting business' search has come down to two candidates for placement with a wealthy, high profile family. By visiting both candidates' Facebook sites, HR discovers that one candidate is an active member of a local synagogue. Although she is more qualified, the other candidate is selected because the clients are

Catholic and she has a similar religious background. This is a Title VII violation? **T or F**

Answers:

1. **False.** The employer could be liable for sexual harassment if it knew of the situation and did nothing to stop it.
2. **False.** Gender stereotyping is prohibited under Title VII.
3. **True.** A business had legitimate concerns and may face liability if it allows an individual with male genitalia to use the female restrooms.
4. **True.** An employer may not select one applicant over another based on her religion.

Office of the Statewide Equal Employment Opportunity Coordinator

301 W. Preston Street
Baltimore, MD 21201

Phone: 410-767-3800
Fax: 410-333-5004

HISTORY FACT

DIVERSITY CORNER

2009



Sonia Sotomayor completes the oath administered by Chief Justice John Roberts to become the Supreme Court's first Hispanic justice and only the third woman in the court's 220-year history, in Washington, Saturday, Aug. 8, 2009.

www.foxnews.com

Recommended Reading

Video:

**ABC News: 20/20
Race and Sex: What We Think But Don't Say**

~Discusses stereotypical reasons of why people are categorize by race, age and gender
\$19.95

Books

Sexual Harassment: Work place Issues by David Peterson Harvey and Gloria Stevenson
\$8.95
released April 2008

Handbook of Prejudice: Stereotyping and Discrimination by Todd Nelson
\$70.00
released Feb 2009

Discrimination by default: How Racism Becomes Routine by Lulin Wang
\$20.
released April 2008