

EEO Connection

Statewide EEO Coordinators Message

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Happy New Year!!

Many people take this time of the year to reflect on the past and set goals for the future, whether it's to lose weight, run a marathon or simply to be the best they can be. My team and I like to reflect on our work goals - the goals that we have accomplished and those that we have not accomplished - which set the tone for the New Year's agenda. As EEO professionals, it is important that you take the time to Reassess, Realign, Rethink and Renew your agency's EEO program goals. Throughout 2016, you will be hearing and seeing new and exciting things coming from the OSEEOC, as we have recharged our engine to make 2016 our "best year" yet. This issue of the EEO Connection gives you information on how to set smart goals for your agency's EEO program. Read how on page 3.

It's no secret that discrimination still exists in our workplaces and we can't pretend that it doesn't exist. On page 4 read how Hillshire Brand paid \$4 million to settle a race discrimination law suit and on page 5 read how Signal International, LLC paid \$5 million to settle a race/National Origin lawsuit. A federal judge has ruled against the Equal Employment Opportunity Commission saying that an employer can require health screenings for insurance. Read more on page 7. The ADA Corner has valuable information that employers should know when dealing with employees with cancer and HIV. Looking for an EEO training or want to know what the OSEEOC has coming up, go to page 10 to find out. The Diversity Corner is filled with notable dates you may want to observe. Also, take our women's history month quiz on page 11.

I want to share with you some additional reading that is not part of the newsletter. Year 2015 has brought five of the most intriguing court decisions that have certainly made a significant impact on case filings, enforcement trends and litigation.

- Mach Mining v. EEOC*, 135 S. Ct. 1645 (2015)
- Young v. United Parcel Service, Inc.*, 135 S. Ct. 1338 (2015)
- EEOC v. Abercrombie & Fitch Stores, Inc.*, 135 S. Ct. 2028 (2015)
- EEOC v. Doherty Enterprises, Inc.*, No. 14-CV-81184, 2015 U.S. Dist. LEXIS 116189 (S.D. Fla. Sept. 1, 2015)
- R.G. & G.R. Harris Funeral Homes, Inc.*, No. 2:14-CV-13710-SFC-DRG (E.D. Mich. filed Sept. 25, 2014)

Read on and enjoy,

Glynis Watford
Statewide EEO Coordinator

Office of The Statewide EEO Coordinator Mission

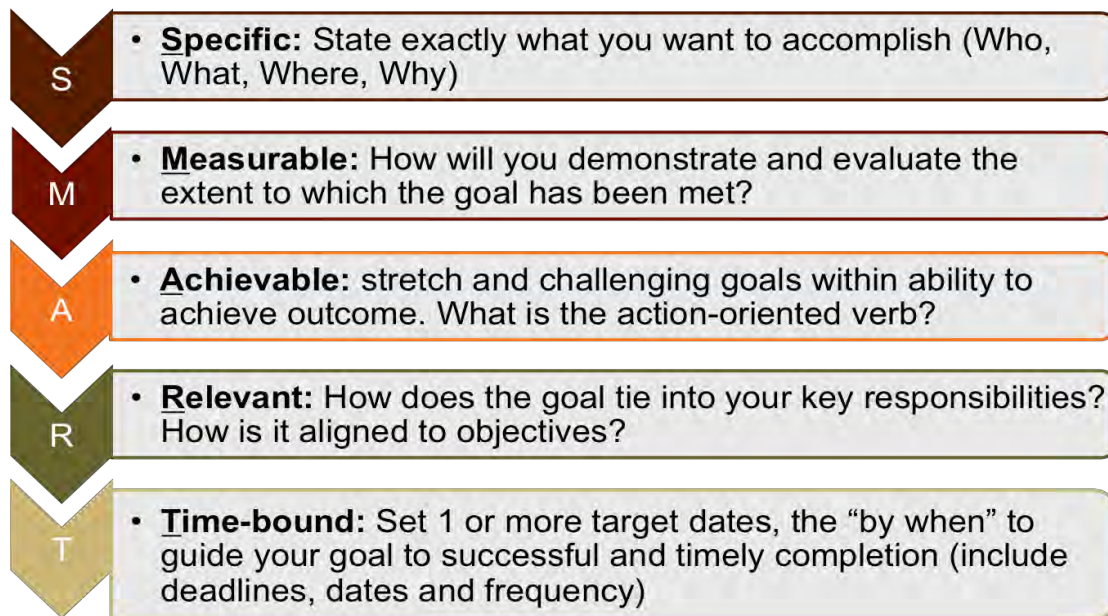
- Administer and enforce state and federal equal employment opportunity laws and policies.
- Promote a work environment free of any unlawful discrimination, harassment, and retaliation.
- Assist in building a well-diversified workforce for Maryland state Government employees and applicants.



The Importance of Identifying SMART Goals for your Agencies EEO Program

Utilizing the OSEEOC Annual Report as a Guide

With the start of the new year, goal setting is a common strategy used by individuals to identify what they would like to accomplish throughout the duration of the new year. While individuals certainly adopt this practice, agencies and the various departments in which they employ do as well. EEO/Fair Practice Officers can benefit from this practice by working in collaboration with its internal leadership team to identify goals for its overall EEO program. Listed below is a chart that which outlines the meaning of SMART goals.



The Annual Statewide Equal Employment Opportunity Report for fiscal year 2015 has been completed and will be disseminated to each EEO Officer in the coming weeks. We strongly encourage that you review the information carefully in order to identify areas in which your agency's EEO program needs improvement. This information can serve as a guide, to help identify what you need to do to and how to accomplish the EEO goals. Additionally, I ask that you take a close look at your agencies Personnel Transaction Analysis categories which includes information on demotions, suspensions, resignations and terminations to determine ways they can work in collaboration with your Employee Relations Officers to reduce these numbers. It is each EEO Officer's responsibility to take necessary steps to investigate such personnel actions to reduce the number of outcomes. This will reflect positively on your agencies overall EEO program.

It's often said that if you fail to plan, then you plan to fail. Developing goals for an EEO program can be a challenge, but it is certainly necessary. Therefore, plan for your EEO program to succeed.

- OSEEOC Team

NOTEWORTHY RULINGS

Hillshire Brands Company Pays \$4 Million to Settle Race Discrimination Suit ***African American Bakery Workers Subjected to Racist Comments and Graffiti in the Worksite, Federal Agency Charged***

DALLAS - Hillshire Brands Company (formerly known as the Sara Lee Corporation) will pay \$4 million to a group of 74 African-American former employees and provide other significant relief to settle a lawsuit where they were subjected to a racially hostile work environment at a former Sara Lee facility in Paris, Texas, the agency announced today.

EEOC claimed African-American employees were subjected to racist graffiti on the walls of the bathrooms and locker room. The former bakery employees also alleged that during work hours, they were berated with racial slurs by supervisors and other white co-workers, and complaints by the plant workers went unaddressed by management.

Race discrimination in the workplace, including race harassment, violates Title VII of the Civil Rights Act of 1964. The EEOC filed suit (Case No. 2:15-cv-1347) in U.S. District Court for the Eastern District of Texas, Marshall Division, after first attempting to reach a pre-litigation settlement through its conciliation process.

Read more at <http://www.eeoc.gov/eeoc/newsroom/release/12-22-15.cfm>



NOTEWORTHY RULINGS

Signal International, LLC to Pay \$5 Million to Settle EEOC Race, National Origin Lawsuit ***Ship Building and Repair Company Subjected Indian Guest Workers to Adverse Living and Working Conditions***

BIRMINGHAM, Ala. - Signal International, LLC, a Mobile, Ala. ship building and repair company, will pay an estimated \$5 million to 476 Indian guest workers to settle a race and national origin discrimination lawsuit filed by the U.S. Equal Employment Opportunity Commission (EEOC), the agency announced today.

According to the lawsuit, Signal International recruited the workers from India through the federal H-2B guest worker program to work at its facilities in Texas and Mississippi in the aftermath of hurricanes Katrina and Rita. EEOC alleged Signal subjected the men to a pattern or practice of race and national origin discrimination, including unfavorable working conditions and forcing the men to pay \$1,050 a month to live in overcrowded, unsanitary, guarded camps. As many as 24 men were forced to live in containers the size of a double-wide trailer, while non-Indian workers were not required to live in these camps.

Such alleged conduct violates Title VII of the Civil Rights Act of 1964 which prohibits discrimination in employment-including terms and conditions of employment--based on race or national origin. EEOC filed suit in federal court in Mississippi in 2011 after first attempting to reach a pre-litigation settlement through its conciliation process, and the suit was later transferred to the Eastern District of Louisiana (*EEOC v. Signal International, LLC*, No. 2:12-cv-0557).

After Signal International filed for Chapter 11 Bankruptcy in Delaware, the settlement of EEOC's suit and eleven related suits became subject to approval by the bankruptcy court. The settlement establishes a claims process and ensures that all aggrieved individuals included in the litigation may receive relief in spite of the bankruptcy proceedings. In addition to monetary relief, Signal International's CEO has issued a statement acknowledging the company's wrongdoing and apologizing for its treatment of the guest workers.

Read more at <http://www1.eeoc.gov/eeoc/newsroom/release/12-18-15.cfm?renderforprint=1>



EEO SPOTLIGHT

EEOC Issues a Statement by Chair Jenny R. Yang to Address Workplace Discrimination Against Individuals Who Are, or Are Perceived to Be, Muslim or Middle Eastern

WASHINGTON -- In the wake of tragic events at home and abroad, EEOC urges employers and employees to be particularly mindful of instances of harassment, intimidation, or discrimination in the workplace against vulnerable communities.

EEOC Chair Jenny R. Yang released the following statement:

"America was founded on the principle of religious freedom. As a nation, we must continue to seek the fair treatment of all, even as we grapple with the concerns raised by the recent terrorist attacks. When people come to work and are unfairly harassed or otherwise targeted based on their religion or national origin, it undermines our shared and longstanding values of tolerance and equality for all.

"We commend employers who have already taken steps to issue or re-issue policies on preventing harassment, retaliation, and other forms of discrimination in the workplace, and we encourage all employers to remain vigilant and to communicate their commitment to inclusive workplaces throughout their organizations. Workers who have experienced discrimination at work or in applying for jobs should report these incidents to the appropriate workplace official and to the U.S. Equal Employment Opportunity Commission or its state and local partners. We urge all employees to re-affirm these values of tolerance and equality in their interactions with their co-workers and show that harassment and discrimination will not be tolerated in America's workplaces."

Read more at <http://www.eeoc.gov/eeoc/newsroom/release/12-13-15.cfm>



EEO SPOTLIGHT

Court: Employers Can Require Health Screenings for Insurance

A federal district judge has ruled against the Equal Employment Opportunity Commission (EEOC) and held that an employer can require workers to undergo health screenings as a condition for receiving employer-provided health coverage. The decision supports connecting access to an employer's health plan—what some see as the maximum incentive—to wellness program participation, but it is likely to be appealed by the EEOC.

On Dec. 31, 2015, in [*EEOC v. Flambeau Inc.*](#), Judge Barbara Crabb of the U.S. District Court for the Western District of Wisconsin wrote that the employer's health assessment and testing requirement at the center of this case fell within the Americans with Disabilities Act (ADA) safe harbor, which provides an exemption for activities related to a health insurance plan when those activities are based on underwriting, classifying or administering risks.

“Defendant's consultants used the data gathered through the wellness program to classify plan participants' health risks and calculate defendant's projected insurance costs for the benefit year,” Crabb ruled. “These types of decisions are a fundamental part of developing and administering an insurance plan and therefore fall squarely within the scope of the safe harbor.”



EEO SPOTLIGHT

Discrimination Plaintiff May Face Criminal Prosecution For Theft of Employers Confidential Documents.

The New Jersey Supreme Court recently affirmed an employee's indictment for allegedly stealing confidential documents from her employer to support employment discrimination and retaliation claims. In *State v. Saavedra*, 222 N.J. 39 (2015), the court made clear that employees should take heed before engaging in self-help in order to obtain confidential documents that they think support their case, rather than relying on the discovery process.

Saavedra was indicted for official misconduct in the second degree and unlawful taking in the third degree after she allegedly stole sensitive records, both copies and originals, about students and their families from the North Bergen Board of Education. Saavedra voluntarily dismissed her discrimination suit and then moved to dismiss the indictment. The trial court denied Saavedra's motion and the Appellate Division affirmed the trial court's decision. While the Supreme Court's 6-1 decision left open the possibility that Saavedra could establish an affirmative defense at her criminal trial by demonstrating a claim of right to the documents or some other justification for removing the documents from her employer, the court made clear that employees can face criminal prosecution for taking an employer's documents.

Read more at http://www.mondaq.com/article.asp?articleid=451066&email_access=on



ADA CORNER

Tips for Supporting Employees with Cancer

The author is chief mission officer at Cancer and Careers, which provides programs and services on cancer workplace issues, and is the sole initiative of the CEW Foundation, the charitable arm of Cosmetic Executive Women, a New York-based nonprofit trade organization. When an employee is diagnosed with cancer, it can be hard to know how to react or what the best course of action is for providing support. Cancer represents a wide range of diagnoses, treatments, side effects and recovery processes. It is also a very personal experience that people handle in the way that makes sense for them. Some people will be very up-front with their health information and what they need. Others will be more guarded and private. As an HR professional or manager, you are not expected to understand all of the variables. However, there are things you can think about, organize and research so that when needed, you are a better resource for clarity and support. Preparation can offer you (and your employees) solid footing at a time when things feel off-kilter.

Here are some tips for supporting an employee with cancer: **Read more at** [http://www.shrm.org/hrdisciplines/benefits/articles/pages/supporting-employees-cancer.aspx?utm_source=SHRM%20Compensation%20and%20Benefits%20%20PublishThis%20NewTemplate%20\(17\)&utm_medium=email&utm_content=December%2017,%202015&MID=&LN=&spMailingID=24263305&spUserID=MTQyNTcwMDQ2OTkwS0&spJob](http://www.shrm.org/hrdisciplines/benefits/articles/pages/supporting-employees-cancer.aspx?utm_source=SHRM%20Compensation%20and%20Benefits%20%20PublishThis%20NewTemplate%20(17)&utm_medium=email&utm_content=December%2017,%202015&MID=&LN=&spMailingID=24263305&spUserID=MTQyNTcwMDQ2OTkwS0&spJob)

EEOC Issues Publications on the Rights of Job Applicants and Employees Who Have HIV Infection

WASHINGTON - The U.S. Equal Employment Opportunity Commission (EEOC) today issued two documents addressing workplace rights for individuals with HIV infection under the Americans with Disabilities Act of 1990 (ADA), including the right to be free from employment discrimination and harassment, and the right to reasonable accommodations in the workplace. The White House has issued a [National HIV/AIDS Strategy](#) (NHAS) for the United States. One of the steps identified by the Strategy is to reduce stigma and eliminate discrimination associated with HIV status and services. EEOC has a long history of enforcing the nondiscrimination rights of individuals with HIV infection in employment. During Fiscal Year 2014 alone, EEOC resolved almost 200 charges of discrimination based on HIV status, obtaining over \$825,000.00 for job applicants and employees with HIV who were unlawfully denied employment and reasonable accommodations. EEOC now extends these efforts by issuing two documents that explain these rights. **Read more at** <http://www.eeoc.gov/eeoc/newsroom/release/12-1-15.cfm>

Meetings & Trainings

Job Accommodation Network (JAN) Webcast

Current Events in Accommodation

February 9, 2016

2:00 p.m. to 3:00 p.m.

Register at <http://askjan.org/webcast/index.htm#Mar08>

Chesapeake Human Resources Association

“Behavioral Economics and Human Resources: What Drives Decisions and How HR Can Use These Insights”

February 17, 2016

Register at http://www.chra.com/events/event_details.asp?id=749597

Office of the Statewide EEO Coordinator

EEO/Fair Practice Officers Meeting

February 25, 2016

Time: 10:00 a.m.—1:00 p.m.

Location : Maryland Department of the Environment

1800 Washington Blvd.,

Baltimore, Maryland 21230

Job Accommodation Network (JAN) Webcast

Accommodating Employees with Learning Disabilities

March 8, 2016

2:00 p.m.—3:00 p.m.

Register at <http://askjan.org/webcast/index.htm#Mar08>

Society for Human Resource Management (SHRM)

2016: A Year For Advocacy Employment Law & Legislative Conference

March 13 - 16 , 2016

Register at <http://conferences.shrm.org/legislative-conference>

Office of the Statewide EEO Coordinator

Movie & EEO Discussion

March 17, 2016

1:00 p.m.— 4:00 p.m.

Location: Owings Mills Library

10302 Grand Central Avenue

Owings Mills, Maryland 21117

Diversity Calendar

January 2016

National Mentoring Month

- January 1—New Year's Day
- January 1—Temple Day—Buddhist
- January 18— Martin Luther King Jr.'s Birthday
- January 25—TU B'SHVAT—Jewish
- January 27— Un Holocaust Memorial Day

February 2016

African American History Month

- February 1— National Freedom Day
- February 8—Lunar New Year
- February 14—Valentines Day
- February 14—Race Relations Day
- February 15—Susan B. Anthony Day
- February 15—Presidents Day

March 2016

Women's History Month

- March 8 - International Women's Day
- March 17—St. Patrick's Day
- March 20—Palm Sunday
- March 21—International Day for the Elimination of Racial Discrimination

Women's History Month Quiz

1. What was the name of America's first woman astronaut?
2. What is the U.S. value of a Susan B. Anthony coin?
3. Who is the female Associate Justice of the Supreme Court who took office on August 8, 2009?
4. Who is the first woman conductor of a large orchestra, the Baltimore Symphony, appointed in 2007?
5. What woman has won a total of 56 Grand Slam tennis competition events and a Wimbledon Women's singles title?

1. Sally Ride, 2. 1 U. S. Dollar, 3. Sonia Sotomayor, 4. Marlon Alsop, 5. Martina Navratilova

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>

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