

# EEO Connection

## Statewide EEO Coordinators Message

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### What’s your Mission?

If you will notice, the second page of our last few newsletters has shown the “OSEEOC’s Mission Statement.” I really like it in that space in the newsletter. It’s a constant reminder of our purpose so that we won’t forget our direction. It is the reason why we do the work that we do. When I read this mission statement, it sparks that passion that I have for the work that we do to make a difference. Those three simple bullet points are the driving force behind the core values of this office and the State of Maryland’s EEO program.

As EEO professionals, if you have not created a “Mission Statement” for your agency’s EEO program, go ahead and use ours. We don’t mind sharing. We only ask that you display it where others can constantly be reminded. So, when you read our newsletters, don’t just flip pass our Mission, read it.

In this edition of the EEO Connection, after reading the “OSEEOC’s Mission Statement,” learn why the OSEEOC Team will be visiting you and about the importance of self-auditing on page three. In the Noteworthy Ruling section, read why a Baltimore Company had to pay more than \$200,000 to settle one of EEOC’s first sexual orientation discrimination cases. Also, learn why the Supreme Court has put to rest the notion that affirmative action is unconstitutional on page five.

Have you checked your EEO postings lately? Maybe you should, because EEOC has more than doubled the monetary fines for employers that fail to properly post federal laws— learn more on page six. In our ADA Corner, read why Lowe’s paid \$8.6 million to settle an EEOC discrimination suit. Take a look at the upcoming meetings and trainings on page 10 so that you know what is happening in our community. Diversity is part of all of us— take our diversity quiz on page 11.

As always...

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 Auditing Your Agency's EEO Program



When most people hear the word “audit”, they get nervous, defensive or anxious in anticipation of finding out what they have done wrong. The truth is, there is no need for you to have any of these feelings. Here’s why: according to dictionary.com, an audit is defined as the inspection or examination of a process to evaluate or improve its appropriateness, efficiency, or the like. Therefore, an audit is not a bad thing, but instead a tool that can be utilized to improve and make things better.

Over the last several weeks, the OSEEOC team has worked diligently to audit various State agencies EEO programs. The primary purpose of the audit is to evaluate and assess agencies EEO programs to ensure full compliance with the State of Maryland laws, policies and procedures, including the Annotated Code of Maryland State Personnel and Pension Article, Code of Maryland Regulations and the Executive Order, Code of Fair Practices. As importantly, this is an opportunity for Fair Practices Officers and EEO Officers to improve their EEO Programs in an effort to avoid any violations, complaints or charges. We strongly recommend quarterly or semi-annual self audits of your EEO program to be sure that you are compliant. The key is to be proactive at all times.

We thank you all for your support and professionalism throughout this audit season. We look forward to helping you make your EEO program more efficient and effective.

**- OSEEOC Team**

## NOTEWORTHY RULINGS

### IFCO Systems Will Pay \$202,200 In Landmark Settlement Of One Of EEOC's First Sexual Orientation Discrimination Lawsuits

BALTIMORE - The U.S. Equal Employment Opportunity Commission (EEOC) announced that Pallet Companies, doing business as IFCO Systems, will pay \$202,200 and provide significant equitable relief to settle one of EEOC's first lawsuits alleging sex discrimination based on sexual orientation.

EEOC charged that a lesbian employee at IFCO's Baltimore facility was repeatedly harassed by her supervisor because of her sexual orientation. Her supervisor made numerous comments to her regarding her sexual orientation and appearance, such as "I want to turn you back into a woman" and "You would look good in a dress," according to the suit. EEOC charged that the supervisor also made sexually suggestive gestures to her. IFCO retaliated against the female employee by firing her just days after she complained to management and called the employee hotline to report the harassment, according to the suit.

Title VII of the Civil Rights Act of 1964 prohibits discrimination because of sex and retaliation. As the federal law enforcement agency charged with interpreting and enforcing Title VII, EEOC has concluded that harassment and other discrimination because of sexual orientation is prohibited sex discrimination. EEOC filed suit in U.S. Court for the District of Maryland, Baltimore Division (*EEOC v. Pallet Companies, d/b/a IFCO*, Civil Action No. Case 1:16-cv-00595-CCB). On the same day, EEOC also filed an unrelated suit against Scott Medical Health Center in U.S. District Court for the Western District of Pennsylvania (Case 2:16-cv-00225-CB), alleging discrimination based on sexual orientation. EEOC filed both lawsuits after first attempting to reach a voluntary pre-litigation settlement through its conciliation process.

"This consent decree marks EEOC's first resolution of a suit challenging discrimination based on sexual orientation under Title VII," said EEOC General Counsel David Lopez, "EEOC is committed to ensuring that individuals are not subjected to discriminatory treatment in workplaces based on their sexual orientation and looks forward to the day that this fundamental right is widely recognized."

The two-year consent decree requires IFCO to pay \$182,200 in monetary relief to the female employee and donate \$20,000 to the Human Rights Campaign Foundation to support the Human Rights Campaign's Workplace Equality Program. The decree enjoins IFCO from engaging in sex discrimination or retaliation in the future. The company will retain an expert on sexual orientation, gender identity, and transgender training to assist in developing a training program for IFCO's top managers, supervisors and employees on LGBT workplace issues. IFCO will also distribute its equal employment opportunity policies and toll-free employee hotline number and Web address to all employees in its north region. The company will provide the female employee with a letter of reference. Finally, IFCO will also post a notice about the settlement and report to EEOC on its compliance with the decree, including how it handled any complaints of sexual orientation discrimination. **Read more at**

<https://www1.eeoc.gov/eeoc/newsroom/release/6-28-16.cfm?renderforprint=1>.



# NOTEWORTHY RULINGS

## Affirmative Action Isn't Dead

Concerns that the Supreme Court would find the use of affirmative action in higher education to be unconstitutional were put to rest June 23, as the court upheld the University of Texas' admissions factors, which included consideration of race in limited circumstances.

"For people in favor of doing things to achieve diversity, it was a very useful decision that what you have been doing, you can keep doing," said Jeffrey Robinson, an attorney with Lewis Baach in Washington, D.C.

Many employers care a lot about diversity and inclusion and were concerned when the Supreme Court agreed to review a challenge of the University of Texas' admissions program, said David Goldstein, an attorney with Littler in Minneapolis.

If affirmative action in higher education was struck down, as some were afraid it would be in the University of Texas case (*Fisher v. University of Texas*, No. 14-981), some feared it would be the first domino to fall, and that diversity programs among private employers and affirmative action among federal contractors might be next, according to Scott Schneider, an attorney with Fisher Phillips in New Orleans and Houston.

That said, affirmative action regulations for federal contractors are an area of the law that "is pretty well settled," said Donald Lawless, an attorney with Barnes & Thornburg in Grand Rapids, Mich.

Employers with diversity programs understand they can't take race or sex into account in recruiting, Goldstein said. They instead are engaged in outreach toward minorities and women, he noted.

However, more diverse college campuses can lead to a more diverse pool of job candidates, and employers will be glad that universities are allowed to continue to use affirmative action in their efforts to promote diversity, according to Goldstein. **Read more at**

[https://www.shrm.org/legalissues/federalresources/pages/texas-affirmative-action.aspx?utm\\_source=Friday%20-%20HR%20Daily%20PublishThis%20Template%20\(20\)&utm\\_medium=email&utm\\_content=June%2024,%202016&MID=01248408&spMailingID=25826596&spUserID=MTQyNTcwMDQ2OTkwS0&spJobID=823770542&spReportId=ODIzNzcwNTQyS0](https://www.shrm.org/legalissues/federalresources/pages/texas-affirmative-action.aspx?utm_source=Friday%20-%20HR%20Daily%20PublishThis%20Template%20(20)&utm_medium=email&utm_content=June%2024,%202016&MID=01248408&spMailingID=25826596&spUserID=MTQyNTcwMDQ2OTkwS0&spJobID=823770542&spReportId=ODIzNzcwNTQyS0)



# EEO SPOTLIGHT

## EEOC More Than Doubles Fines for Posting Violations

The Equal Employment Opportunity Commission (EEOC) is more than doubling the monetary fines for employers that fail to properly post federal laws that protect workers from discrimination.

The EEOC announced the penalty hike on June 2 in the Federal Register, and the new fines will take effect in 30 days.

The maximum penalty for violating the posting requirements will now be \$525, more than double the previous maximum of \$210.

Employers covered by Title VII of the Civil Rights Act of 1964, the Americans with Disabilities Act or the Genetic Information Nondiscrimination Act must post notices describing the key provisions of these acts in “prominent and accessible” spots in the workplace, according to the EEOC. The requirement applies to private employers, state and local governments, and educational institutions employing 15 or more individuals, as well as to federal contractors and subcontractors.

The EEOC first adjusted the penalty for violations in 1997, when it raised the maximum penalty per violation from \$100 to \$110. The EEOC’s second adjustment was announced in 2014, raising the maximum penalty per violation from \$110 to \$210. The adjustments are part of a legally-required periodic review on possible adjustments for inflation. **Read more at**

[https://www.shrm.org/hrdisciplines/employeerelations/articles/pages/eec-penalties.aspx?utm\\_source=Friday%20-%20HR%20Daily%20PublishThis%20Template%20\(17\)&utm\\_medium=email&utm\\_content=June%202016&MID=01248408&spMailingID=25651784&spUserID=MTQyNTcwMDQ2OTkwS0&spJobID=820503092&spReportID=ODIwNTAzMDkyS0](https://www.shrm.org/hrdisciplines/employeerelations/articles/pages/eec-penalties.aspx?utm_source=Friday%20-%20HR%20Daily%20PublishThis%20Template%20(17)&utm_medium=email&utm_content=June%202016&MID=01248408&spMailingID=25651784&spUserID=MTQyNTcwMDQ2OTkwS0&spJobID=820503092&spReportID=ODIwNTAzMDkyS0)

## DISCRIMINATION IS AGAINST THE LAW!

Federal laws protect you and other people from discrimination by some or all of the programs of the business, organization, or office where you are reading this poster. The Civil Rights Center (CRC), in the U.S. Department of Labor, is in charge of enforcing many of these laws. It does not matter if you are a customer, existing or pending services, an employee of the business, organization, or office, or a person applying for a job.

These types of discrimination are against the law:  
A program that is covered by one of the laws mentioned at the top of this poster is not allowed to discriminate on any of the following bases (types of discrimination):

For customers, applicants, employees, and the general public:  
• race • color • national origin • religion  
• sex • age • disability • political affiliation or belief

For customers only:  
• citizenship or status to work legally in the U.S.  
• being part of any program that gets a specific type of “financial assistance” from the federal government under a specific law (the Workforce Investment Act).

### How can I file a discrimination complaint?

If you think:  
• a program of the business, organization, or office has discriminated against you, or against any specific group of people, and  
• will file a complaint, you should be allowed to file your complaint here, and ask for permission. Look for the address for CRC on this poster.

Is there a time limit for filing a complaint? Yes. You must file a discrimination complaint within 180 days of the day on which the discrimination took place. The only person who can let you file the complaint late is the Director of the Civil Rights Center (CRC) in Washington, DC. If you want to file a complaint more than 180 days after the discrimination, you must write to the CRC Director, explain why you should be allowed to file your complaint late, and ask for permission. Look for the address for CRC on this poster.

### What should the complaint include?

The complaint must be filed in writing. It should include this information:  
• Your name  
• Your address  
• The name and address of the program, business, organization, or office you think discriminated against you or against a specific group of people.  
• The date when you think the discrimination took place.  
• The types of discrimination you think are involved in the case (for example, race, sex, disability, age).  
• The names of any people who were involved in the discrimination, including any witnesses.

You must also explain what happened, and why you think discrimination took place.

Do I have to file the complaint myself? You may file the complaint through a “representative.” Your representative may be a lawyer, a family member, a social worker, a union steward, or anyone you choose to file the complaint for you. If a representative files your complaint for you, these three things must be on the complaint.

• First, your representative’s name must be on the complaint.  
• Second, the complaint must say that your representative is filing the complaint for you.  
• Third, you must personally sign the complaint.

or a member of the general public. If you have contact with a program that is covered by one of the laws, the program cannot discriminate against you. CRC has designed this poster to explain:  
• what your rights are, and  
• where you can file a complaint if you believe the law has been violated.

Where may I file a complaint? You can choose one of two possible places to file your complaint: the state or local level. If you would like to file your complaint at the state or local level, here is the contact information for the current office:  
Trent Hoverton, LWIA-III Equal Opportunity Officer  
Workforce Partnership  
1323 Meadowlark Lane, Suite 102B  
Kansas City, KS 66102 913-287-1116

The federal government’s Civil Rights Center. If you would like to file your complaint with the Civil Rights Center, please send it to this address:

U.S. DEPARTMENT OF LABOR  
CIVIL RIGHTS CENTER  
200 CONSTITUTION AVE. NW  
WASHINGTON, DC 20210

If you have any questions, you may contact CRC by phone or e-mail:  
Phone: (202) 693-8500  
TDD/VO: (202) 693-8500  
e-mail: [ComplaintCenter@dol.gov](mailto:ComplaintCenter@dol.gov)  
Or check CRC’s website: <http://www.dol.gov/eisaa/programs/crc/>

CRC’s business hours are 9 am to 5 pm, Eastern Time.

Do I need to use a special form to file the complaint? If you file your complaint with CRC, you do not have to use a special form at the time you file your complaint. You can use a copy of the information on the list in the “What should the complaint include?” section of this poster. But if you do not use our complaint form, we will ask you to fill out a copy of the form before we begin working on your complaint.

If you would like to file your complaint at the state or local level, you also do not need to use a special form at first. But the office where you file your complaint may ask you to fill out one of our forms before its staff begins working on your complaint. Please use the contact information above to check with that office.

### When can I get a copy of CRC’s complaint form?

• Are you able to use the Internet to print forms? If yes, CRC’s website has copies of the complaint form in either English or Spanish.  
• This is the Web address for the form in English:  
<http://www.dol.gov/eisaa/programs/crc/CFrm0608.doc>  
• This is the Web address for the form in Spanish:  
<http://www.dol.gov/eisaa/programs/crc/CFrm0608.doc>

• If you are not able to use the Internet to print forms, you may get a copy of CRC’s complaint form in one of these ways:  
• You may write to CRC to ask for a copy of the form. Look for CRC’s mailing address on this poster.  
• The business, organization, or office where you are reading this poster should be able to give you a copy of the form.

## KNOW YOUR RIGHTS!

# EEO SPOTLIGHT

## EEOC Seeks Public Input on Proposed Enforcement Guidance on National Origin Discrimination

WASHINGTON -- The U.S. Equal Employment Opportunity Commission (EEOC) announced that it has voted to release for public input a proposed enforcement guidance addressing national origin discrimination under Title VII of the Civil Rights Act of 1964. EEOC's enforcement guidance documents express official agency policy and explain how the laws and regulations apply to specific workplace situations.

Title VII protects job applicants and employees from discrimination based on their race, color, religion, sex or national origin, as well as retaliation because a person complained about discrimination or participated in an employment discrimination investigation or lawsuit. Title VII prohibits employer actions that treat people unfavorably because of their national origin, including because they are from a particular country or part of the world, because of ethnicity, or because they appear to be of a certain ethnic background.

In 2002, the EEOC last comprehensively addressed national origin discrimination. Since that time, there have been significant legal developments addressing national origin discrimination. The revised guidance addresses important issues, including job segregation, human trafficking, and intersectional discrimination. **Read more at** <https://www.eeoc.gov/eeoc/newsroom/release/6-2-16a.cfm>



# ADA CORNER

## Employer-Provided Leave and the Americans with Disabilities Act

The U.S. Equal Employment Opportunity Commission (EEOC) enforces Title I of the Americans with Disabilities Act (ADA). The ADA prohibits discrimination on the basis of disability in employment and requires that covered employers (employers with 15 or more employees) provide reasonable accommodations to applicants and employees with disabilities that require such accommodations due to their disabilities.

A reasonable accommodation is, generally, "any change in the work environment or in the way things are customarily done that enables an individual with a disability to enjoy equal employment opportunities."<sup>[2]</sup> That can include making modifications to existing leave policies and providing leave when needed for a disability, even where an employer does not offer leave to other employees.<sup>[3]</sup> As with any other accommodation, the goal of providing leave as an accommodation is to afford employees with disabilities equal employment opportunities.

The EEOC continues to receive charges indicating that some employers may be unaware of Commission positions about leave and the ADA. For example, some employers may not know that they may have to modify policies that limit the amount of leave employees can take when an employee needs additional leave as a reasonable accommodation. Employer policies that require employees on extended leave to be 100 percent healed or able to work without restrictions may deny some employees reasonable accommodations that would enable them to return to work. Employers also sometimes fail to consider reassignment as an option for employees with disabilities who cannot return to their jobs following leave.

This document seeks to provide general information to employers and employees regarding when and how leave must be granted for reasons related to an employee's disability in order to promote voluntary compliance with the ADA. It is consistent with the EEOC's regulations enforcing Title I of the ADA, as well as the EEOC's 2002 Revised Enforcement Guidance: Reasonable Accommodation and Undue Hardship Under the Americans with Disabilities Act (a link to the Guidance appears at the end of this document).

Read more at <https://www.eeoc.gov/eeoc/publications/ada-leave.cfm>.





## ADA CORNER

### Lowe's to Pay \$8.6 Million to Settle EEOC Disability Discrimination Suit

LOS ANGELES - The U.S. Equal Employment Opportunity Commission (EEOC) announced the approval of the resolution of a nationwide disability discrimination case against home improvement, appliance and hardware giant Lowe's. U.S. District Court Judge André Birotte Jr. approved the consent decree which calls for the distribution of \$8.6 million.

According to EEOC's suit, Lowe's violated the Americans with Disabilities Act (ADA) and engaged in a pattern and practice of discrimination against people with disabilities by firing them and by failing to provide reasonable accommodations to them when their medical leaves of absence exceeded Lowe's 180-day (and, subsequently, 240-day) maximum leave policy. EEOC also charged that Lowe's violated the ADA by terminating individuals who were "regarded as" disabled, had a record of disability, and/or were associated with someone with a disability.

In addition to monetary relief, the four-year consent decree settling the suit requires that Lowe's retain a consultant with ADA experience to review and revise company policies as appropriate; implement effective training for both supervisors and staff on the ADA; develop a centralized tracking system for employee requests for accommodation; maintain an accommodation log; and post documentation related to this settlement. Lowe's is also required to submit regular reports to EEOC verifying compliance with the decree.

Any person terminated by Lowe's between Jan. 1, 2004, and May 13, 2010, after having taken the maximum amount of leave then available under Lowe's leave-of-absence policies, can go to [www.loweseecsettlement.com](http://www.loweseecsettlement.com) or email [lowes.settlement@eoc.gov](mailto:lowes.settlement@eoc.gov) or call 1-855-725-4456 for more information on how to complete a claim form.

"This settlement sends a clear message to employers that policies that limit the amount of leave may violate the ADA when they call for the automatic firing of employees with a disability after they reach a rigid, inflexible leave limit," said EEOC General Counsel David Lopez. "We hope that our efforts here will encourage employers to voluntarily comply with the ADA." **Read more at** <https://www1.eeoc.gov/eeoc/newsroom/release/5-13-16.cfm?renderforprint=1>



**Let's Build Something Together™**

## Meetings & Trainings

**Faith In The Workplace Symposium**  
**University of Baltimore**  
**William H. Thumel Sr. Business Center**  
11 W. Mt. Royal Avenue  
Baltimore, Maryland 21201  
July 21, 2016—**Invitation only event**  
8:30 a.m.— 4:00 p.m.

**National Federation of the Blind**  
**Intersect –26 Years of the Americans with Disabilities Act**  
200 East Wells Street  
Baltimore, Maryland 21230  
July 26, 2016  
10:00 a.m.—3:00 p.m.  
**Register at** <http://mdod.maryland.gov/news/Pages/2016-ADA-Anniv.aspx>

**23RD Annual Mid-Atlantic ADA Update Conference**  
Conference: September 14, 2016 through September 15, 2016  
Hilton Baltimore  
401 West Pratt Street  
Baltimore, Maryland 21201  
**Register at** <http://www.adainfo.org/Content/ADA-Update>

**College & University Professional Association (CUPA) HR Annual Conference and Expo 2016**  
**1919 Connecticut Avenue**  
**Northwest, Washington D.C.**  
September 25-27, 2016  
**Register at** <http://conferences.cupahr.org/annual2016/>

**OSEEOC Presents a Movie and Discussion**  
Owings Mills Public Library  
10301 Grand Central Avenue  
Owings Mills, Maryland 21117  
September 2016  
1:00 p.m.—4:00 p.m.  
**Additional Details Coming Soon!**

**SHRM Diversity and Inclusion Conference & Exposition**  
October 25—27, 2016  
JW Marriott  
Austin, Texas  
**Register at** <http://conferences.shrm.org/diversity-conference>

## Diversity Calendar

### July 2016

July 4—Independence Day or Fourth of July

July 26— 26th Anniversary of the Signing of Americans with Disabilities Act

### August 2016

August 15—Bon Festival (Feast of Lanterns)

August 15—Feast of the Assumption

August 21— Hawaii Admitted to Union

August 26—Women’s Equality Day

### September 2016

September 7—Labor Day

September 8—International Literacy Day

September 15— October 15—Hispanic Heritage Month

September 16—Mexican Independence Day

September 13-15—Rosh Hashanah (Jewish New Year)

September 17—Citizenship Day (or Constitution Day)

September 21—International Day of Peace

September 22—23—Yom Kippur (Day of Atonement)

September 25—School Desegregation Cones to Little Rock

### Diversity Quiz

1. Hawaii has the largest percentage of Asian Americans of any U.S. state. True \_\_\_\_\_ False \_\_\_\_\_
2. Bon Festival (Feast of Lanterns) is a Japanese Buddhist custom to honor the departed spirits of one’s ancestors. True \_\_\_\_\_ False \_\_\_\_\_
3. A red dot worn on the foreheads of married women from India is called a “bindi;”, it is a symbol of the universe in the Hindu religion. True \_\_\_\_\_ False \_\_\_\_\_
4. Muslims stop everything 5 times a day to pray. True \_\_\_\_\_ False \_\_\_\_\_
5. France is home to the largest Islamic community in Europe True \_\_\_\_\_ False \_\_\_\_\_
6. Louis Braille was blind from the age of three and became famous in Paris as an organist. He conceived the idea of embossed dots and dashes to enable the blind to read. True \_\_\_\_\_ False \_\_\_\_\_

Answers: A1. True, A2. True, A3. True, A4. True, A5. True, A6. True

## 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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