

355 FW EQUAL OPPORTUNITY OFFICE

July 2009

Thirteenth Edition

Equal Opportunity and the Administration

Every new era brings about change and new ways of doing things. Hence, in light of the previous administration and new administration, changes have been made to update laws to reflect the direction our nation is taking in terms of equal opportunity rights at present.

The following are notices* outlining amendments that have been made to both the American Disabilities Act (ADA) and the Equal Pay Act of 1963 (now referred to as the Lilly Ledbetter Fair Pay Act).

The U.S. Equal Employment Opportunity Commission

NOTICE CONCERNING THE AMERICANS WITH DISABILITIES ACT (ADA) AMENDMENTS ACT OF 2008

On September 25, 2008, the President signed the Americans with Disabilities Act Amendments Act of 2008 ("ADA Amendments Act" or "Act"). On June 17, 2009, the Commission voted to approve a proposed Notice of Proposed Rulemaking (NPRM) to conform its ADA regulations to the Amendments Act. The Commission voted 2-1 to adopt the rules changes.

The Act makes important changes to the definition of the term "disability" by rejecting the holdings in several Supreme Court decisions and portions of EEOC's ADA regulations. The effect of these changes is to make it easier for an individual seeking protection under the ADA to establish that he or she has a disability within the meaning of the ADA.

The Act retains the ADA's basic definition of "disability" as an impairment that substantially limits one or more major life activities, a record of such an impairment, or shift the focus of the courts from further narrowing the definition of disability and putting it back to where Congress intended when the ADA was enacted in 1990. Courts should now focus on whether discrimination based on disability is occurring in the workplace. The protections afforded by the ADA under these new

regulations are important for all workers including our returning wounded warriors who deserve the right to re-enter a workforce free of discrimination."

Most significantly, the Act: Directs EEOC to revise that portion of its regulations defining the term "substantially limits";

- It expands the definition of "major life activities" by including two non-exhaustive lists:
 - the first list includes many activities that the EEOC has recognized (e.g., walking) as well as activities that EEOC has not specifically recognized (e.g., reading, bending, and communicating);
 - the second list includes major bodily functions (e.g., "functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions");
- states that mitigating measures other than "ordinary eyeglasses or contact lenses" shall not be considered in assessing whether an individual has a disability;
- clarifies that an impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active;
- changes the definition of "regarded as" so that it no longer requires a showing that the employer perceived the individual to be substantially limited in a major life activity, and instead says that an applicant or employee is "regarded as" disabled if he or she is subject to an action prohibited by the ADA (e.g., failure to hire or termination) based on an impairment that is not transitory and minor;
- provides that individuals covered only under the "regarded as" are not entitled to reasonable accommodation.

The EEOC is responsible for enforcing federal laws prohibiting employment discrimination. Further information about the EEOC is available on its web site at www.eeoc.gov.

NOTICE CONCERNING THE LILLY LEDBETTER FAIR PAY ACT OF 2009

On January 29, 2009, the President signed the [Lilly Ledbetter Fair Pay Act of 2009](#) ("Act"), which supersedes the Supreme Court's decision in *Ledbetter v. Goodyear Tire & Rubber Co., Inc.*, 550 U.S. 618 (2007). *Ledbetter* had required a compensation discrimination charge to be filed within 180 days of a discriminatory pay-setting decision (or 300 days in jurisdictions that have a local or state law prohibiting the same form of compensation discrimination).

The Act restores the pre-*Ledbetter* position of the EEOC that each paycheck that delivers discriminatory compensation is a wrong actionable under the federal EEO statutes regardless of when the discrimination began. As noted in the Act, it recognizes the "reality of wage discrimination" and restores "bedrock principles of American law."

Under the Act, an individual subjected to compensation discrimination under Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, or the Americans with Disabilities Act of 1990 may file a charge within 180 (or 300) days of any of the following:

- when a discriminatory compensation decision or other discriminatory practice affecting compensation is adopted;
- when the individual becomes subject to a discriminatory compensation decision or other discriminatory practice affecting compensation; or
- when the individual's compensation is affected by the application of a discriminatory compensation decision or other discriminatory practice, including each time the individual receives compensation that is based in whole or part on such compensation decision or other practice.

The Act has a retroactive effective date of May 28, 2007, and applies to all claims of discriminatory compensation pending on or after that date.

*All notices were taken from the U.S. Equal Employment Opportunity Commission
http://www.eeoc.gov/ada/amendments_notice.html
<http://www.eeoc.gov/press/6-17-09.html>
<http://www.eeoc.gov/epa/ledbetter.html>

Why be Diverse?

by Latishia James

It may seem contradictory that in a world where so many adhere to and often times crave uniformity, that

companies, schools, organizations and the government are all calling for more diverse environments. Not only do these institutions strive for diverse environments, but they also expect these environments to thrive and work together cohesively; differences and all. This may appear as a strange direction to take, but in actuality a diverse environment may be the most natural environment of all. If one were to simply take a look at the planet one could see the reasoning behind this idea more clearly. Here is Earth; a living, breathing organism with a plethora of ecosystems that all work together to keep it alive. If it were not for all the different components of chemicals in the atmosphere, humans would not be able to breathe and hence would cease to exist from lack of oxygen. The differences in environment allow for sustained life; so why would differences in the work environment not have the same effect?

By embracing the differences in others one can in turn better one's self. In the same way that different colors and textures blend together to make beautiful and brilliant clothing, people of diverse backgrounds, experiences and walks of life blend together to make dynamic and intelligent work forces. Please keep in mind that when speaking of diversity it is not just limited to those epithets which encompass the wide variety of "-isms". Being diverse is much more than a skin tone or nationality; it is rather the culmination of every adversity an individual has had to face in their life and how it has molded their persona thus far. With that being said, it is the act of embracing the diverse qualities in another person that truly attests to one's character. It is for this reason that federal employers (and employers in general) have been adhering to and embracing the changes in equal opportunity for the betterment of their organizations. They are standing up and leading by example, showing their open-mindedness, acceptance and strong characters.

Some may question the need for diverse environments, which seems the equivalent to asking why there should be updates in protocol. There is a need for diversity in every element of the workplace, if not for the simple fact that diverse people means more diverse ideas and a whole new wealth of knowledge never previously tapped into. As individuals who have all had their share of adversity and whose life experiences matches no one else's we each bring something different to the table. No matter what limitations a person may have, they are a person just the same and their value is immeasurable. Hence, for those questioning why be diverse, there should be those questioning why not.

Davis-Monthan AFB Calendar of Events

Hispanic Heritage Month

15 Sep – 15 Oct 09

POC SMSgt Melendez & MSgt Frank Garcia

National Disability Employment Awareness Month

1-31 Oct 09

POC MSgt Amy Hogan & TSgt Jerry Mitchell

National Native American Heritage Month

1-30 Nov 09

No POC Identified Yet



**“EVERY ISSUE IS NOT AN EQUAL
OPPORTUNITY ISSUE, BUT IT IS A
LEADERSHIP ISSUE”**

**Director, Equal Opportunity:
MRS. BARBARA DYCUS**

**NCOIC, Equal Opportunity
TSGT DEVEN GATES**

**EO Staff
MR. KIRBY OLSON
MR. RICKY COLLINS
MS. LATISHIA JAMES (Summer Hire)**

**355 FW/EO
Bldg 2300, Rm 2047
520-228-5509 (fax) 520-228-5621**



Staff Changes

Farewell to TSgt Regina Harris! Retired June 26, 2009 after 20 years of faithful service. She will be missed.

Trainings Available



EO Program Offers True Colors Training!

True Colors is a temperament-type training program that focuses on helping participants understand their own needs and motivations, as well as the needs and motivations of co-workers, supervisors, subordinates, customers, family members, etc. The program utilizes easy to understand terms, and is immediately transferable and applicable. Participants complete a fun filled three hour program that helps them to identify their own personality traits while learning how to communicate more effectively using their newly acquired skills. This program is effective in helping to develop both follower and leadership skills, as well as team building and honing communication skills. True Colors training sessions is conducted by EO staff, and is free to all DAFC and military members. EO staff provides training to off-base agencies and organizations on a case-by-case basis. Training teams are available to conduct True Colors training sessions at the unit location or in the EO classroom, bldg 2300. Please contact TSgt Deven Gates (228-5509) with questions or to schedule a training session.

In addition, the 355th FW/EO office offers a wide variety of Leadership, Discrimination and Sexual Harassment classes. The classes can be tailored to your organizations uniqueness with the capability to assist in resolving concerns at the lowest level. For additional information contact the 355th FW/EO office at 228-5509.