

出國報告（出國類別：出席國際會議）

出席美國公平就業機會委員會(EEOC)
2017年研討會議(EXCEL)

服務機關：勞動部

姓名職稱：顧家容 專員

派赴國家：美國

出國期間：106年6月26日至29日

報告日期：106年9月26日

摘要

美國公平就業機會委員會 (Equal Employment Opportunity Commission, 下稱 EEOC) 源於 1964 年之民權法第七章 (Title VII of the Civil Rights Act of 1964) 而設立, 該委員會係一獨立的聯邦執法機構, 執行聯邦政府之平等就業相關法律。EEOC 受理並調查種族、膚色、宗教、性別(包含懷孕、性別認同及性傾向)、族裔、年齡(等於或大約 40 歲)、身心障礙及基因資訊等就業歧視之申訴案件, 此外並負責監督和協調所有聯邦政府的平等就業機會規定、措施和政策。

EEOC 設有專責訓練機構 (EEOC Training Institute), 辦理並提供各機關 EEOC 執法人員相關教育訓練。其中, 每年辦理就業歧視法規檢視研討會 (Examining Conflicts in Employment Laws: EXCEL), 該會議提供包含聯邦機構及私部門之公平就業人員 (Equal Employment Officers: EEOs)、HR 及替代性爭議解決方案 (Alternative Dispute Resolution) 相關執行人員教育訓練, 以強化其專業知識。2017 年 EXCEL 研討會於伊利諾州芝加哥市舉辦, 為期 4 天, 透過重要法規檢視及個案研討等方式, 提升參與者對於聯邦政府就業平等相關規範之認識與瞭解, 及歧視案件實務判定知能。

本年度研討會重點議題如下:

- 一、性別歧視
- 二、年齡歧視
- 三、職場性騷擾

本報告提出政策建議如下:

- 一、發展禁止雇主報復相關規範

二、強化現行就業歧視認定原則

三、強化職場平權執法人員在職訓練

四、辦理多元宣導，落實法令規定

目 錄

壹、 出國目的	4
貳、 EXCEL 研討會行程	5
參、 會議研討重點	9
一、 性別歧視	9
二、 年齡歧視	12
三、 職場性騷擾	13
肆、 心得及建議	15
一、 發展禁止雇主報復相關規範	15
二、 強化現行就業歧視認定原則	15
三、 強化職場平權執法人員在職訓練	16
四、 辦理多元宣導，落實法令規定	16
附錄：2017 年美國公平就業機會委員會 (EEOC) 法規檢視研討會 (2017 Annual EXCEL Training Conference) 議程	18

壹、出國目的

我國防制就業歧視、性別歧視禁止及性騷擾防治等職場平權相關法令，主要規範於就業服務法及性別工作平等法。依就業服務法第 5 條第 1 項規定：「為保障國民就業機會平等，雇主對求職人或所僱用員工，不得以種族、階級、語言、思想、宗教、黨派、籍貫、出生地、性別、性傾向、年齡、婚姻、容貌、五官、身心障礙或以往工會會員身分為由，予以歧視；其他法律有明文規定者，從其規定。」性別工作平等法第二章及第三章分別訂有性別歧視之禁止及性騷擾之防治等規定，相關罰則及申訴救濟程序該法已有明訂。至有關就業服務法各項歧視規定，係 1992 年該法制定時，依憲法第 7 條平等權及第 15 條保障工作權之精神，規定雇主對求職人或受僱禁止有該法所列之 12 項就業歧視項目，並於 2002 及 2007 年修正、增訂身心障礙、婚姻、性傾向及年齡等禁止就業歧視項目，歧視項目雖不少，惟各項歧視之明確規範及實務認定標準則較為缺乏。

鑑於美國有關就業公平制度及法案規範完整，執法機構 EEOC 自 1965 年成立以來，至今年已有 52 年，相關體系、配套措施發展健全且行之多年，值得我國進一步參考、效法。爰為加強瞭解美國及國際最新有關公平就業之勞動情勢、相關法令變革，本部自 2016 年開始，派員參與 EXCEL 研討會，期藉由人員親自參與研討會，獲取最新法令資訊，以強化日後相關業務之規劃及發展。另透過參與會議，與美國有關業務之勞工行政人員交換工作經驗，以進一步建立國際聯絡管道，將有助於我國未來相關勞動政策規劃上，更具國際觀視野。

貳、EXCEL 研討會行程

EEOC 每年舉辦就業歧視法規檢視研討會 (Examining Conflicts in Employment Laws, 下稱 EXCEL), 2017 年研討會係於伊利諾州芝加哥市舉辦, 從 6 月 26 日至 29 日, 為期 4 日課程, 提供包含聯邦機構及私部門之公平就業人員 (Equal Employment Officers: EEOs)、HR 及替代性爭議解決方案 (Alternative Dispute Resolution) 相關執行人員教育訓練並提升其專業能力。4 天會議行程共計包含 2 種行前會議在職訓練課程、3 個全體大會及超過 50 堂專題討論課程, 多元化的課程設計, 提供與會者依照需求, 選擇必要課程以精進專業領域知識。

6 月 26 日為行前會議在職訓練課程, 分為諮詢者在職訓練 (Counselor Refresher Training) 及調查者在職訓練 (Investigator Refresher Training)。為瞭解就業歧視案件調查及違反法令之認定過程, 報告人選擇參加調查者在職訓練課程, 該課程內容主要包括 1. 聯邦政府部門案件法律之動態 (Federal Sector Case Law Update)、2. EEOC 禁止雇主報復條款及其相關議題之執法指導原則 (Retaliation Update: EEOC Enforcement Guidance on Retaliation and Related Issues)、3. 防治工作場所之騷擾 (Preventing Workplace Harassment) 及 4. 認定申訴訴求: 修正、合併或不受理 (Identifying Claims: Amend Consolidate or Dismiss)。

有關聯邦政府部門案件法律之動態部分, 講師介紹 2016 年度聯邦部門受理上訴之各種申訴歧視案件, 共計 111 件, 是 2007 年以來案件最多的一年。其中, 身心障礙歧視案件佔 48%、雇主報復案件佔 36%、性別歧視案件佔 17%, 年齡歧視案件則為 8%。課堂上並針對 2016 年度有關身心障礙歧視、年齡歧視、雇主報

復及性別歧視等相關案件之主要爭點、相關制裁及和解協議等分析討論，以提供與會人員相關業務法令見解之更新。至課程有關 EEOC 禁止雇主報復條款之執法指導原則部分，主要介紹 EEOC 於 2016 年 8 月 25 日發布之「禁止雇主報復條款及其相關議題之執法指導原則」(EEOC Enforcement Guidance on Retaliation and Related Issues)，該新頒布之執法指導原則取代了 1998 年 EEOC 頒布的遵循手冊(Compliance Manual Section 8: Retaliation)，爰於今年之調查者在職訓練課程上，就該指導原則中何謂報復、報復訴求之適法要件、相關名詞之重要認定原則及個案分析上有諸多探討。

另有關防治工作場所之騷擾部分，講師主要討論了工作場所之騷擾(Harassment)定義及類型、雇主之法律責任及因應之道。至就業歧視申訴之認定課程部分，則著重於討論申訴之法定組成要件及個案研析，一般認為一個申訴(Claim)的組成，包含了違反法令規定之基礎(適用法律包括民權法第七章【Title VII of the Civil Rights Act】、就業年齡歧視法【ADEA】、同工同酬法【EPA】、復健法【Rehabilitation Act】等)、受僱者認為僱用關係做法上之不公平並且產生重大且有害之傷害等三部分(Basis + Issue + Injury = Claim)，講師以數個個案為例與學員互動討論，透過深入個案以進一步瞭解申訴(Claim)之法律認定要件。

自 6 月 27 至 29 日共 3 日之研討會議，每日上午 8 點 30 分至 10 點皆以全體大會方式展開，並安排就業公平相關領域之重要人物發表開幕主題演說，之後則有三時段之專題工作坊，同一時段皆有 7、8 場次不同主題之專題課程，供與會者依個人需求自由選擇參加。

6 月 27 日之開幕典禮，首先由 EEOC 委員會主席發表演說，Victoria A. Lipnic 於 2010 年 4 月開始，即由美國參議院同意擔任 EEOC 委員會委員，今年 1

月 25 日並經美國總統 Donald J. Trump 任命為 EEOC 委員會主席。Victoria A. Lipnic 於勞工及就業相關法令上之工作經歷相當完整，她於 2002 年至 2009 年，主要係於美國聯邦政府單位擔任勞工及勞動條件之重要工作。於 2010 年成為 EEOC 委員會委員後，對於身心障礙法案(Americans with Disabilities Act : ADA)之發展及 EEOC 行政業務之推動亦有相當重要之貢獻。Victoria A. Lipnic 於會上除報告未來 EEOC 之努力目標外，並進一步感謝與會相關人員於各領域對於美國達到公平就業目標所付出之努力，並期勉與會者透過為期 3 日之在職教育訓練，精進專業知能，以助日後工作更加順利。

報告人於 6 月 27 日之開幕典禮會後，即向 EEOC 委員會主席 Victoria A. Lipnic 致意，肯定美國就業公平制度健全及完備，並表達日後我國如有相關業務疑義，期能與該會有關單位人員進一步請益。又因勞動部預計於今年下旬召開公平就業機會政策及其實踐相關國際研討會，並擬邀請 EEOC 官員參與會議研討，爰報告人亦向 EEOC 委員會主席 Victoria A. Lipnic 表達誠摯邀請之意，歡迎其親自到訪我國參加會議，期使勞動部與 EEOC 有更多合作交流之機會及可能性，以助於我國未來相關勞動政策規劃上更具國際觀視野。



EEOC 委員會主席 Victoria A. Lipnic 於全體大會發表演說場景



報告人與 EEOC 委員會主席 Victoria A. Lipnic 合影

參、會議研討重點

如前開會議行程內容所述，6月27至29日共3日之EXCEL研討會議，係以專題工作坊之方式進行，並由與會者依個人需求自由選擇參加。考量現行有關就業歧視禁止及性別工作平等業務執行上之相關議題，報告人此行選擇參加之專題討論課程主要包含性別及性傾向歧視、年齡歧視、職場性騷擾及雇主報復相關規範等議題，會議研討重點摘述如下：

一、性別歧視

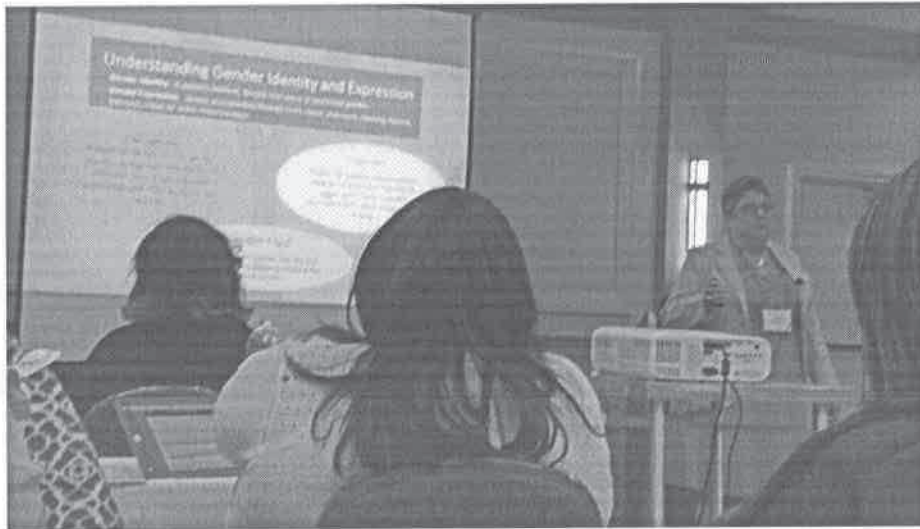
依據1964年民權法第7章 (Title VII of the Civil Rights Act of 1964) 規定，禁止雇主對求職者及受僱者，基於種族、膚色、原始國籍、性別或宗教等因素，在就業決定上予以歧視。前開法令制定之初，對於「性別」並未明確指出其範疇是否包含性傾向及性別認同。EEOC 依最高法院相關個案法律見解及法院判決，提出性別歧視禁止規定，應包括禁止有關以性傾向及性別認同為基礎之歧視解釋，該解釋使「性別」之範圍涵蓋異性戀、同性戀、雙性戀及跨性別者，進一步保障LGBT (Lesbian, Gay, Bisexual, and Transgender : LGBT) 之就業平等權利。

EEOC 於2016年共計接獲26,934件性別歧視控訴案件，包含性傾向、性別認同及跨性別等相關議題，占所有就業歧視類型的29.4%。EEOC 透過向大眾加強推廣及宣導等方式，以達到LGBT性別歧視禁止之功效。於2015年，各級有關人員即辦理700餘場有關LGBT性別歧視禁止議題之活動，共計超過43,000人參加。於同一年度，聯邦政府部門亦向超過4,400個觀眾會員發送約53個有關議題宣傳陳述；此外，為接續加強宣導，EEOC 亦印製宣導手冊，以強化大眾對LGBT性別歧視禁止之認知。

承上，性別歧視議題，尚來為 EEOC 宣導重點之一。於今年工作坊亦有針對 LGBT、跨性別者於工作場所面臨之問題等相關專題。於「Transgender in the Workplace」課程上，講師為 Vanessa Sheridan，是有名的跨性別議題作家，並為企業講授跨性別受僱者職場相關思維等概念。Vanessa Sheridan 以其專業經驗論述職場上「性別真實性」(Gender Authenticity)之構成要件為何，並說明工作場所「性別真實性」之重要性。

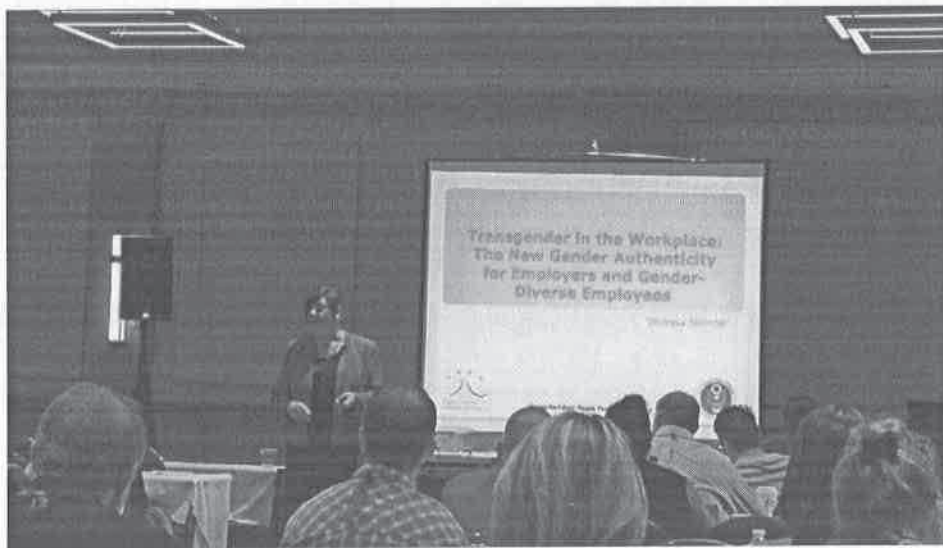
另於「Lesbian, Gay, Bisexual, Transgender and Queer + (LGBTQ+) Issues in the Workplace」課程上，講師 Kathy Flores 係來自於威斯康辛州一非營利組織「Diverse & Resilient」，該組織致力於推動 LGBTQ 之健康、公平及安全等福祉。Kathy Flores 清楚地區分性傾向及性別認同定義，並指出根據跨性別者相關歧視調查，64%跨性別者有被性騷擾之經驗、57%不被家庭接受、51%曾遭受身體攻擊、41%曾試圖自殺。此外，講師更進一步說明跨性別者因政治態度變及政策變更、世代差異、相對是隱形之少數…等原因，使其於職場上面臨到不一樣之挑戰。各州是否就性傾向及性別認同立法禁止部分，講師提出相關數據說明，僅有 19 個州有立法禁止性傾向及性別認同之就業歧視規定，3 個州禁止性傾向或性別認同就業歧視，其餘多為無相關法令規定，

報告人於課後並向講師 Kathy Flores 表明，我國性別工作平等法之性別歧視禁止係包含性傾向及性別認同，且今年 5 月 24 日我國司法院大法官就「同性二人婚姻自由案」作成釋字第 748 號解釋，後續相關法律將調整配合。Kathy Flores 對此表達認同之意，並認為美國有關跨性別者職場權益保障仍有努力空間，期待未來能提供跨性別者更有保障之工作環境。



「Lesbian, Gay, Bisexual, Transgender and Queer + (LGBTQ+) Issues in the Workplace」

講師 Kathy Flores 授課場景



「Transgender in the Workplace」講師 Vanessa Sheridan 授課場景

二、年齡歧視

美國於 1967 年制定就業年齡歧視法(Age Discrimination in Employment Act: ADEA)，適用於僱用 20 人以上之雇主，該法禁止歧視年齡等於或大於 40 歲之求職者或受僱者，惟保障範圍並不包括未滿 40 歲之求職者或受僱者，雇主若偏好僱用年齡較大之勞工，並不違反法令規定。所稱就業年齡歧視，包括於僱用、解僱、薪資、工作分配、升遷及福利等任何勞動條件上產生歧視，就業年齡歧視之加害人可能是主管、同事、客戶或其他公司的受僱者。又就業年齡歧視法訂有境外適用之規定，因此，任職於境外之美國公司的美國籍中高齡受僱者，也同樣受該法保障。

承上，事業單位之僱用政策或措施如不考慮年齡因素適用於所有人，而對等於或大於 40 歲之求職者或受僱者造成負面影響時，倘不是基於年齡以外之合理因素 (Reasonable Factors Other Than Age; RFOA)，即認定違反就業年齡歧視法。

就業年齡歧視法施行至今年已 50 年，今年工作坊課程上亦安排相關課程，報告人參加「ADEA at 50:Observe the Golden Anniversary by Avoiding the Golden Handshake」，該課程講師 Cathy Ventrell-Monsees 係 EEOC 的資深法律顧問。課程一開始，Cathy Ventrell-Monsees 分析 1990 年-2016 年就業年齡歧視申訴案件統計數據，1990 至 2016 年申訴者之種族以白人為多，超過 60%；性別部分，1990 年男性申訴案件多於女性，大於 60%，至 2016 年男、女申訴案件比例差異不大。又，申訴者年齡部分，2016 年統計以 55 歲至 64 歲之分組佔比最高，超過 40%。

講師指出，從 2001 年以來美國之工作場所中 55 歲以上之員工已增加 40%(830 萬人)，初估現在人數總計約 2,900 萬人。依據 EEOC 發布之統計資料顯示，在 2000 年，共計有 16,008 件年齡就業歧視申訴案件，占所有就業歧視申訴案件的 20%，至 2016 年，案件增加至 20,857 件，占所有申訴案件 22.8%，顯見年齡於就業歧視中之普遍性。

講師並比較分析 1964 年民權法第 7 章 (Title VII of the Civil Rights Act of 1964) 與 1967 年制定之就業年齡歧視法(ADEA)禁止歧視項目上之差別，例如，前者適用於 15 人以上之事業單位，後者則適用於 20 人以上之事業單位。此外，講師更進一步整理歷年重要之法院判決，說明各判決理由、爭點之不同處，以助大家釐清就業年齡歧視之違法認定。

三、職場性騷擾

美國 1964 年制定民權法第 7 章 (Title VII of the Civil Rights Act of 1964) 時，「性別」歧視已列為就業歧視禁止項目之一，所稱「性別」歧視亦包括職場性騷擾之禁止。EEOC 在 1980 年即頒布指導原則 (guidelines)，建立相關事件判定原則，及釐清雇主應負擔法律責任範圍並建議雇主採取性騷擾防治措施，以符合法令規定，EEOC 之後亦陸續發布相關政策指導原則 (policy guidance and enforcement guidance)，以利相關人員於處理爭議案件時之依據。

依 EEOC 說明，性騷擾可能發生於各種情境，包括以下(但不限制)：

1. 受害者或騷擾行為人不限於男性或女性，也包含同性間之性騷擾案件。
2. 騷擾行為人可能是受害者之主管、雇主、同事或公司以外之人員。
3. 受害者不一定是受歧視的當事人(the person harassed)，但可能是在這一敵意式行為中受影響之任何人。

4. 違法之性騷擾行為，不一定對受害者有經濟上之危害或損失。
5. 騷擾行為人之行為必須為不受歡迎的(unwelcome)。

依據 EEOC 統計資料，2016 年共計受理 6,758 件性騷擾申訴案件，其中男性申訴人佔總案件數之 16.6%。EEOC 於調查性騷擾申訴案件時，會參考相關資料及紀錄，包含性騷擾行為的發生、背景及申訴者所指稱之內容等等。EEOC 亦提醒雇主，事業單位性騷擾防治宣導工作是消除職場性騷擾最好的工具。該會鼓勵雇主應採取必要措施，以防治職場性騷擾之發生，包括提供教育訓練及建立有效之申訴管道，並於員工申訴時，採取立即適當之行為。

今年工作坊課程上，雖無講授性騷擾議題之課程，但就如何建立防制歧視計畫有安排相關課程，報告人參與「Model Behavior: Establishing an Effective Anti-Harassment Program」課程。

該課程係由 Alexis D. Howard 及 Timothy Bladek，Alexis D. Howard 為 EEOC 之法律顧問，Timothy Bladek 則為 EEOC 之推廣協調員(Outreach Coordinator)，兩位講師結合法令及實務之授課，詳細解說建立有效反歧視計畫之重要性，課程上並與學員互動，深入個案探討，幫助受訓人釐清法令規定。



「Model Behavior: Establishing an Effective Anti-Harassment Program」

講師 Alexis D. Howard 及 Timothy Bladek 與學員互動場景

肆、心得及建議

美國是目前先進國家中，就業平等法制發展完整且甚早之國家之一。各該就業歧視法案訂定實施皆已有數十年，並有專責單位 EEOC 負責執行相關法令規定。EEOC 自成立以來，即致力於消除就業歧視，除訂定政策指導原則、雇主法令遵循手冊外，對於各級執法人員亦定期舉辦訓練課程，期提升相關人員專業知能，落實法令規定，此外，EEOC 亦透過辦理活動、製作文宣等方式，宣導就業歧視禁止規定，相關成效卓著。我國法制雖與美國制度不同，惟美國法令規定、法令執行作法上，實有許多值得我國參考、學習之處。報告人以參與 EXCEL 研討會所見，就我國現行就業平等相關規定及作法提出以下建議：

一、發展禁止雇主報復相關規範

為避免雇主以報復(retaliation)手段，使求職者或受僱者無法受到就業歧視禁止相關法令保障，美國就業歧視禁止相關法令皆訂有禁止報復條款。我國於性別工作平等法第 36 條訂有：「雇主不得因受僱者提出本法之申訴或協助他人申訴，而予以解僱、調職或其他不利之處分。」規定，惟就業服務法並無相關規定，為落實就業平等保障，未來宜參考美國作法，訂定禁止雇主報復規範。

二、強化現行就業歧視認定原則

我國就業歧視禁止規範主要規定於就業服務法第 5 條第 1 項及性別工作平等法第二章。其中，性別工作平等法係規定性別及性傾向禁止，其認定原則、救濟及申訴程序，除法令有相關規定外，實務執行上之疑義經由行政解釋已有所釋示，地方主管機關已可遵依。

就業服務法規範之就業歧視禁止規定，僅有第 5 條第 1 項之條文規定，雖該法施行細則第 2 條已訂定就業歧視之申訴由地方主管機關組成就業歧視評議委

員會認定之，亦有諸多行政解釋，惟就該法各項就業歧視之認定原則，實務上仍有判定上疑義，爰可參考美國 EEOC 之作法，發展就業歧視相關指引或行政指導，以利有關執法人員遵循。

三、強化職場平權執法人員在職訓練

我國現行職場平權相關執法人員之訓練，主要係以研習會、宣導會講授課程方式辦理，受訓人員每年重復參與，成效有限。爰建議參考美國作法，雖於現行體制上無法設置如 EEOC Training Institute 之專責訓練機構，惟就訓練辦理方式，似可借鏡美國，以工作坊方式辦理並著重於個案討論，使受訓人員得依需求選擇課程，並重點加強其所缺乏之專業知能。

四、辦理多元宣導，落實法令規定

EEOC 於就業歧視法令之宣導不遺餘力，其透過辦理相關活動、會議、製作文宣手冊，並利用網路等多元方式加強宣導，落實法令推廣，使大眾週知。近年來，本部於職場平權法令宣導之形式日漸多元，包括透過電影、網路、臉書、簡訊等方式，加深各界對職場平權法令之認識與瞭解，未來亦應持續透過多元有效之宣導方式，強化職場平權。



報告人於 EXCEL 會場留影



報告人與參訓者於會場留影

附錄：2017 年美國公平就業機會委員會（EEOC）法規檢視研
討會（2017 Annual EXCEL Training Conference）議程



2017 EXCEL CONFERENCE AGENDA

(EXAMINING CONFLICTS IN EMPLOYMENT LAW)

The EXCEL Conference is where EEO, HR, and ADR practitioners from private and federal organizations gather for four days of outstanding education, training and professional development. There are three plenary sessions, two specialty tracks, and over 50 open workshops that give participants the needed knowledge, and skills to enhance their performance, and meet the evolving demands of today's workplace.

The workshops are designated by suggested audience to assist participants in selecting the most appropriate session. These designations are suggestions and participants are encouraged to explore any of the open workshops. Participants are asked to select one open workshop from each of the sessions listed below. Plenary sessions occur on Tuesday, Wednesday and Thursday morning. The Specialty Tracks are Hearings Preparation and MD-715 Barrier Analysis and are limited to 40 participants.

SUNDAY, June 25, 2017 (Conference Registration Check In: 3:00 p.m. - 7:00 p.m.)

MONDAY, June 26, 2017 (Conference Registration Check In: 7:00 a.m. - 5:00 p.m.)

PRE-CONFERENCE SESSIONS: 8:30 a.m. - 4:30 p.m.

- | | |
|-------------------------|--|
| 7:30 a.m. – 8:30 a.m. | Continental Breakfast Salon C (Lower Lobby) |
| 10:00 a.m. – 10:30 a.m. | Mid-Morning Break Salon C (Lower Lobby) |
| 12:00 p.m. – 1:30 p.m. | Lunch Salon C (Lower Lobby) |
| 3:00 p.m. – 3:30 p.m. | Mid-Evening Break Salon C (Lower Lobby) |

- A. **Counselor Refresher Training.** Session will meet requirements for eight (8) hours of annual refresher training for counselors as outlined in MD-110. **Presenters: Victor Voloshin and Barbara Dougherty Salon C-1 & C-2**
- B. **Counselor Refresher Training.** Session will meet requirements for eight (8) hours of annual refresher training for counselors as outlined in MD-110. **Presenters: Marcus Artis and Virginia Andreu Salon C-3 & C-4**
- C. **Investigator Refresher Training.** Session will meet requirements for eight (8) hours of annual refresher training for investigators as outlined in MD-110. **Presenters: Alexis Howard and Bismarck Myrick Salon C-5 & C-6**

- D. **Litigating before the EEOC and MSPB.** Session will cover discovery, summary judgment, mixed cases, mixed appeals, settlements and sanctions. Get tips of what to do and what not to do in hearings before the EEOC and the MSPB. **Presenters: Diane Gross, William Macauley, Daniel Yehl, Erin Brandenburg and David Lidow Salon C-7**

TUESDAY, June 27, 2017

7:30 a.m. – 8:30 a.m. Continental Breakfast **Salon D**

8:30 a.m. – 10:00 a.m. PLENARY SESSIONS International Ballroom North

8:30 a.m. – 8:45 a.m. Welcome and Opening Color Guard (with City Representative)

8:45 a.m. – 9:15 a.m. Greetings from EEOC Chair and Introduction of Keynote Speaker

9:15 a.m. – 10:00 a.m. Opening Keynote: **Stephen Pemberton**, Senior Executive, Walgreens Boots Alliance, author of *Chance in the World & Voice for Change for Youth*

10:00 a.m. - 10:30 a.m. Mid-Morning Break Salon D

WORKSHOP SESSION I: 10:30 a.m. – 12:00p.m.

A. **The ADEA at 50: Observe the Golden Anniversary by Avoiding the Golden Handshake** (Private/Federal audience) Today's older workers and the workforce itself is dramatically different than it was 50 years ago, yet myths, stereotypes and discrimination against older workers still persists. At this session, leading experts in the field will discuss today's reality for older workers and present strategies that will effectively engage the entire workforce and support practices to employ and retain older workers. **Presenters: Cathy Ventrell-Monsees and L. Steven Platt Salon C-7**

B. **The Why Behind the What: Effective Investigative Questions** (Federal audience) When investigating a complaint, it can be tempting to try a scattershot approach to get the answers you need. How much more effective would your investigation be if you could plan ahead which questions to ask to gather the most useful information in the least amount of time? Two highly-experienced EEO practitioners will guide you through the process of tailoring your questions to the nature of the claim and the relevant legal theory. **Presenters: Kathleen Aram and Bismarck Myrick International Ballroom South**

C. **Disability Etiquette** (Private/Federal audience) Disabled employees are major contributors to our unique and diversified workplace. As with any culture, understanding the norms of everyday interaction enriches the positive effect that diversity has on our workplace. Disability Etiquette in the Workplace will explore the scope of the disability community and offer guidance regarding workplace etiquette that you might not be aware of if you have not had the experience. Topics covered will include service animals, wheelchairs, using a sign language interpreter, disparate treatment, invisible disabilities, micro-aggressions, empathy, offering assistance, reasonable accommodations, and unconscious bias. **Presenters: Kelly Bunch and Anne Hirsh Salon C-6**

- D. **It's Evidentiary: Principles and Practices in Administrative Hearings** (Federal audience) Whether the Rules of Evidence are relaxed, as in EEOC and MSPB hearings, or not, as in District Court, a practitioner must know what is admissible and what is probative. Learn how to collect and enter evidence. There will also be a discussion of preserving relevant evidence. Gain a functional knowledge, or a law school refresher, of the Rules of Evidence particularly for EEOC and MSPB hearings. **Presenters: Katherine Beaumont Kern, Joanna Friedman and Julie Todd Salon C-4**
- E. **You Measure What You Treasure: Diversity Metrics** (Private/Federal audience) Many diversity programs fail in part because of a lack of good metrics. The good news is that each stage of a diversity program can be measured, and this course provides guidance on how to develop those metrics. This course will also explore how to disaggregate statistics, how to include diversity metrics in Human Resources Management Systems, and challenges in collecting certain types of demographic data from employees. **Presenter: Marc Brenman Continental B**
- F. **Managers as Mediators** (Private/Federal audience) This is an interactive workshop on how to mediate from the unique position of manager. The workshop will show managers how to use their built in advantages and overcome the obstacles that await them. Through presentation, video examples, discussion and role play, the participants will learn the fundamentals of mediating as a manager in order to increase workplace productivity. **Presenter: Clymer Bardsley Salon C-3**
- G. **Lesbian, Gay, Bisexual, Transgender and Queer+ (LGBTQ+) Issues in the Workplace** (Private/Federal audience) Why are we still talking about LGBTQ+ issues in the workplace? This session will provide attendees with a diverse and resilient toolkit for working with LGBTQ+ employees. Participants will learn LGBTQ101 vocabulary and current issues. The federal and state laws that impact the LGBTQ community will be explored. Disparities in the workplace for LGBTQ+ employees will be identified and participants will leave with the knowledge of how to make space for LGBTQ+ employees to bring their full, authentic selves to work. **Presenter: Kathy Flores Continental A**
- H. **Something to Believe in – When Religion Comes to the Workplace** (Private/Federal audience) The law balances an employee's right to free exercise of their religious beliefs and the employer's right to run a business consistent with their principles. This session will discuss that balance in workplace issues like religious expression, religious discrimination and reasonable accommodations. But, it will also talk about ways employers can create workplace cultures that will welcome and embrace different beliefs and minimize division and conflict. **Presenters: William Cash, Daniel Herrington and Cynthia Nance Salon C-5**

12:00p.m. - 1:30 p.m. – Lunch International Ballroom North

Lunch Speaker: *Haben Girma*, JD, deaf blind, first deaf-blind graduate of Harvard Law School, Disability Rights Advocate

WORKSHOP SESSION II: 1:30 p.m. – 3:00 p.m.

- A. **EEOC Guidance: National Origin Discrimination** (Private/Federal audience) What is national origin? Is it where you were born? Where your parents were born? Is it a country? A region with a common culture? All of the above? In today's geo-political climate, it is more important than ever to be aware of what is (or may be) national origin discrimination. Join one of the Commission's senior advisers for an informative discussion of EEOC's recent guidance on this timely topic. **Presenter: Bria Gillum Salon C-7**
- B. **Why We Found Discrimination** (Federal audience) Two experienced AJs will give specifics of why discrimination was found in actual cases, discussing the fact scenarios and the particular problems in the case. **Presenters: Mary Palmer and Francis Polito International Ballroom South**
- C. **What's New in the Federal Sector** (Federal audience) 2016 brought significant changes in federal sector policy, regulations and operations. In this session, senior EEOC leaders and federal sector staff will summarize the latest developments and outline a road map for 2017 and beyond. Come prepared with questions and expect to leave this session with a greater practical understanding of how these changes and plans may affect your agency, clients and/or day-to-day workplace responsibilities. **Presenters: Dexter Brooks and Barbara Dougherty Salon C-6**
- D. **The ABCs of FAD Writing, Part 1** (Federal audience) The first session of this two-part course will focus on providing effective strategies and tools for drafting legally sound and persuasive final agency decisions. This course will focus on the regulatory requirements for FADs, the structure of model FADs, the various theories of discrimination (i.e., disparate treatment, harassment, reasonable accommodation, and emerging and thorny issues that pose challenges to FAD writers. **Presenters: John Sim and Marqui Willoughby Salon C-4**
- E. **Reasonable Accommodation Conversations – How to Succeed in the Interactive Process** (Private/Federal audience) Providing workplace accommodation is an intimidating task which may cause unintentional havoc to the environment. Engaging in a productive dialogue that results in win-win solutions when discussing a reasonable accommodation request with an employee can be challenging. Using two professionally produced videos developed by the Job Accommodation Network (JAN) we will successfully demonstrate how to navigate these conversations. This workshop will also lay a path to help employers traveling through an ADA maze of confusion by providing information on conducting an accommodation analysis and the issues surrounding requesting medical documentation. Participants will have real life examples to illustrate effective communication strategies and strategies to minimize co-worker animosity. **Presenters: Anne Hirsh and Patricia McMahon Continental B**
- F. **Making Conflict Work: A New Model for Leveraging Power and Conflict** (Private/Federal audience) This workshop is a practical tutorial in the enhancement and use of conflict intelligence: how to effectively manage conflicts across power differences, and how to channel the considerable energies from organizational conflict toward achieving important goals. The participants will leave the session in possession of a vital set of tools for any organization facing change, diversity or opinions, or a greater need for candor and creativity. **Presenters: Clymer Bardsley and Bridget Regan Continental A**

- G. **Top 10 Issues for Employers at the EEOC in 2017 and More** (Private audience) This session, presented by an employment attorney who closely monitors EEOC developments on behalf of employers, will provide what he thinks will be the key EEO issues for employers to monitor in their compliance activities. Participants will gain a better understanding of the EEOC process and will be aware of the legal risks, including monetary risks, based on non-compliance with EEO laws. Areas covered include; EEOC conciliation, systemic investigations and related litigation, hiring barriers, ADA accommodation issues, pay equity and more. **Presenter: Barry Hartstein Continental C**
- H. **Diversity Programs: A New Approach** (Private/Federal audience) Diversity programs are not new. They came about after a series of high profile lawsuits regarding diversity issues in the workplace. Diversity programs were seen as the fix with the school of thought being that if we teach diversity and inclusion, if we force it at work, if we expand training and diversity programs – we will see an improvement overall. Yet, studies are showing that, in many cases, this approach is not working and these programs are failing. This session will examine the approaches that seem to stifle efforts to increase diversity and inclusion and will address methods that can be used to achieve a culture of diversity and inclusion. **Presenters: Debra Finney and Travis Nicholson Salon C-5**

3:00p.m.-3:30p.m. - Mid-Afternoon Break Salon D

WORKSHOP SESSION III: 3:30 p.m. – 5:00 p.m.

- A. **Risky Business: Social Media in the Workplace** (Private/Federal audience) There are over 2 billion active social media users in the world. Everything in the world is now in the workplace and everything in the workplace is now in the world. For employers, issues of free speech or religious beliefs can arise that result in workplace conflict and complaints of discrimination. Employers are increasingly using the internet to gather information about job applicants from social networking sites. This information would frequently be off limits in the interviewing process and can present legal problem for the employer. This session will address self-audits of your Social Media policy and employee compliance procedures and how to manage the risk of the potential battles that can arise. **Presenter: Joe Bontke Continental B**
- B. **Tricky HR Situations: Harassment and Retaliation Edition** (Private audience) This highly popular session returns with a focus on Harassment and Retaliation case scenarios. Three attorneys; EEOC, Plaintiff and Defendant, argue about specific fact based scenarios and involve the audience in the assessments. This session exposes participants to various viewpoints on specific issues and provides the EEOC's interpretation. Additionally, information from the Select Task Force on the Study of Harassment in the Workplace and the Retaliation guidance will be provided. **Presenters: William Cash, Daniel Herrington and Cynthia Nance International Ballroom South**
- C. **The ABCs of FAD Writing, Part 2** (Federal audience) The second portion of this course will allow the class to collectively draft a sample final agency decision using case file materials developed for this course. During this exercise, instructors will also share and discuss a model FAD to illustrate best FAD writing strategies and techniques. **Presenters: John Sim and Marqui Willoughby Salon C-7**

D. **MD-715: Addressing Opportunities for Hispanics in the Federal Workforce** (Federal audience) On January 18, 2017, U.S. Office of Personnel Management (OPM) and EEOC issued a joint memorandum urging agencies to conduct a more focused barrier analysis on Hispanic Employment. In this session, we will discuss how to conduct an effective root cause analysis and present agencies with workforce solution tools and federal-government-wide best practices for eliminating barriers to the hiring, retention and advancement of Hispanic individuals. **Presenters: Virginia Andreu and Alexis Howard**

Salon C-4

E. **The ADEA at 50: Observe the Golden Anniversary by Avoiding the Golden Handshake** (Private/Federal audience) Today's older workers and the workforce itself is dramatically different than it was 50 years ago, yet myths, stereotypes and discrimination against older workers still persists. At this session, leading experts in the field will discuss today's reality for older workers and present strategies that will effectively engage the entire workforce and support practices to employ and retain older workers. **Presenters: Cathy Ventrell-Monsees and L. Steven Platt Salon C-6**

F. **You've Got This: Effective Strategies for Difficult Situations** (Private/Federal audience) This session will provide clear, doable and effective strategies for a variety of difficult behaviors and circumstances in the workplace. Do you talk with people who seem totally out of touch with reality? Do you have to help those who don't seem to have a clue about how to work with others? Do you have a co-worker who is always negative? These and other situations can make it difficult to function effectively. The presentation will provide the participant with a list of strategies to empower them and result in positive changes. **Presenter: Ramona Buck Continental A**

G. **Show Me the Money: Compensatory Damages** (Federal audience) Compensatory damages claims are important aspects of most EEO cases, yet they seem to get the least attention until the actual hearing. This session will present a "how to" approach to proving a claim for compensatory damages, mostly using lay witnesses, and a discussion of how to rebut or defend those claims. The appropriate use of expert witnesses will also be discussed. **Presenters: Joseph Kaplan, Cheryl Kramer and Heidi Schandler Salon C-5**

H. **Section 501 of the Rehabilitation Act: Effective Strategies for Turning Policy into Practice** (Federal audience) Recent updates to Section 501 of the Rehabilitation Act are compelling federal agencies to assess and, if needed, strengthen their efforts to recruit, retain and advance qualified people with disabilities. In addition to consolidating existing requirements from different sources, the revised regulation establishes uniform representation goals at both higher and lower pay levels. To achieve these goals, agencies must ensure effective policies and practices to ensure success across the employment lifecycle. The presenters will discuss strategies that agencies can leverage to move from policy to practice. **Presenters: Dinah Cohen, Anupa Iyer and Brett Sheats Continental C**

5:30 p.m. – 6:30 p.m. 2017 EXCEL Conference Reception
Normandie (2nd Floor)

WEDNESDAY, June 28, 2017

7:30 a.m. – 8:30 a.m. Continental Breakfast **Salon D**

8:30 a.m. – 10:00 a.m. PLENARY SESSIONS International Ballroom North

8:30a.m. – 9:15a.m. Keynote Speaker: *Jo Ann Jenkins*, CEO of AARP

9:15a.m. – 10:00a.m. Keynote Speaker: *Tina Sung*, Vice President
Government Transformation & Agency Partnerships
Partnership for Public Service

10:00 a.m. - 10:30 a.m. - Mid-Morning Break Salon D

WORKSHOP SESSION IV: 10:30 a.m. – 12:00p.m.

- A. **Ask the AJ – Panel of Chief AJs** (Federal audience) Ask a panel of seasoned Supervisory Administrative Judges about the Federal Sector Forum. Current issues? The past? The future? Only discussions about specific cases are out of bounds. **Presenter: Alison Smith-Lynn, Francis Polito, Mary Palmer and Cheryl Kramer Salon C-4**
- B. **The ABC's of Building and Retaining a Diverse Workplace** (Private audience) It should be as simple as ABC... one-two-three...you and me! A critical asset in business is an ability to communicate with cultural sensitivity and awareness. This is why the more diversity a business utilizes in recruiting, hiring and retention the more a company broadens its ability to reach new markets and access untapped customers. This session will discuss how to hire a more diverse workforce, how to resolve pitfalls when attempting to transform the workforce, and how to retain diverse employees during the transitional period. **Presenter: Patricia McMahon Salon C-7**
- C. **What's the Big Deal with Big Data** (Federal audience) Big Data is no longer a new word, yet its usage and applications in EEO programs are still blossoming. Data analytics pose both great opportunity and potential danger when it comes to the employment arena. This session provides an overview of developments in big data as it is being used in a variety of industries, and then focuses on how big data and EEO intersect. Data analysis of EEO complaints activity will be evaluated, and we will discuss using data visualization to share an effective EEO story. **Presenter: John Sim Salon C-5**
- D. **Accommodation Outside the Office – Issues and Answers** (Private/Federal audience) What are the guidelines for accommodating employees who can't or won't come to the workplace? How do you determine what is an essential function that can only be done at the office? In this session, we will examine accommodation scenarios and case results focusing on the use of telework and extended leave, as well as the related issue of essential functions. Come hear how EEOC has decided these issues, which factors are most important, and how you can successfully navigate similar situations. **Presenter: Christopher Kuczynski Continental A**

- E. **Effective EEO Counselor's Reports** (Federal audience) Counselor's Reports are one of the first and most important documents produced in the federal sector administrative EEO process. This course will guide participants on how to draft Counselor's Reports that effectively convey actions undertaken during counseling and properly frame claims raised by complainants. **Presenters: Patricia St. Clair and Virginia Andreu International Ballroom South**
- F. **Model Behavior: Establishing Effective Agency Anti-Harassment Programs** (Federal audience) EEOC's regulations and management directives provide that model federal agency EEO programs must have internal anti-harassment policies and procedures that operate separately from the administrative EEO complaints process. Additionally, the U.S. Supreme Court has established that such anti-harassment policies/procedures may serve as an agency's affirmative defense. So why do so many agencies still lack adequate anti-harassment programs? Join EEOC experts for a nuts-and-bolts discussion covering the business case for such programs, a comprehensive review of the legal and regulatory requirements of the roles and responsibilities of federal agencies in preventing harassment and avoiding liability, and a practical guide to how such a program should operate to prevent and stop harassment – before a complaint is ever filed. **Presenters: Marqui Willoughby and Alexis Howard Continental B**
- G. **Can't We Just Talk About it – A Beginner's Guide to Mediation** (Private/Federal audience) This session will introduce the novice to the 'decorum' of a mediation; the role of the mediator; the role of the representative; the role of the represented party; the purposes of joint and separate caucuses, etc. Differences between evaluative and facilitative mediation, as well as the rules of confidentiality, will also be discussed. **Presenter: Joseph Kaplan Salon C-6**
- H. **The Crossroads of Religion and Rights in the Workplace** (Private/Federal audience) World and political events have pitted contrasting ideas into tension: inclusion and tolerance vs. fear and misunderstanding. This session will explore the ethical dilemma of today's workplaces and the risk management of rights and responsibilities. This session will focus on developments of religious discrimination law and principles and apply its elements to scenarios to maximize the understanding of risks and implications. **Presenters: David Handsher and Joe Bontke Continental C**

12:00pm-1:30pm – Lunch International Ballroom North

Lunch Speaker: *Kathleen McGettigan*, Acting Director Office of Personnel Management

WORKSHOP SESSION V: 1:30 p.m. – 3:00 p.m.

- A. **Legal Updates: Significant Court Cases and EEOC Guidance** (Private/Federal audience) The courts have been very busy this year. Hear from the EEOC about the latest cases and precedent setting decisions and their implications for your workplace. Also included is an update on Wellness Programs. This session will get you up-to-date on the latest in the EEO Legal arena. **Presenter: Peggy Mastroianni International Ballroom South**

- B. **It's the Little Things – Micro-aggressions and their Impact** (Federal/Private audience) Micro-aggressions comprise part of the theory on micro-messaging and refers to ways in which individuals are either singled out, overlooked, ignored, demeaned, stereotyped or otherwise discounted based on a characteristic such as race or gender. If an employer allows them to go unchecked the end result is employee disengagement and can lead to huge problems in the workplace, including discrimination complaints and litigation. This session will examine micro-aggressions, their impact on the workplace and what employers can do to counteract the negative impact and create a culture of inclusion and equality. **Presenters: Travis Nicholson and Debra Finney Continental C**
- C. **Ask OFO** (Federal audience) Avail yourself of this no-holds-barred opportunity to speak your mind to a panel of OFO senior staff about any aspect of Appellate Review, Compliance and Control and Federal Sector Programs. Bring any and all questions and suggestions and be prepared for a lively session! **Presenters: Carlton Hadden, Robbie Dix and Dexter Brooks Salon C-6**
- D. **It's a Mixed Up World: Understanding Mixed Cases** (Federal audience) Are you mixed up about what to do with a mixed case and/or how such cases are processed? Learn from the pros. This session will shed light on what is a mixed case, how to determine whether to file the case in the EEOC or MSPB forum, what are the considerations in deciding one forum over another, and lots more. Attendees will walk away with a clear understanding of the rules, policies and case authorities governing these cases. **Presenters: Georgia Vlahos, Francis Polito and Heidi Schandler Continental A**
- E. **Valuing Diversity – The Interview Process and Beyond** (Private/Federal audience) Creating and embracing diversity is not only the right thing to do, but it also contributes to the success of your organization. This session will examine the importance of diversity in your workplace and analyze mistakes commonly made during the interview process which can lead to a homogeneous workplace. Come learn the appropriate steps to be taken in advance of the pre-interview process to enhance the possibility of a diverse qualified applicant pool, what questions not to ask during the interview and other techniques for creating diversity within your organization. **Presenter: Michael Cohen Salon C-7**
- F. **The CAP Approach: Resolving Reasonable Accommodation Challenges** (Private/Federal audience) This session will present details on the time-tested CAP needs assessment model that mitigates common sources of conflict when providing reasonable accommodations. The presenter will describe seven common sources of conflict, provide eight strategies to remove or mitigate the conflict, and review the three-pronged CAP needs assessment process. The presentation will also include an overview of the use of assistive technologies when providing accommodations for both apparent and non-apparent conditions. **Presenter: John Sanders Salon C-4**

G. **Retaliation in the Federal Sector: A Psychosocial Approach to Understanding Revenge** (Federal audience) Anti-retaliation laws give those experiencing unfair treatment confidence in voicing their victimization in pursuit of restorative justice. Unfortunately, retaliation remains among the leading bases of EEO complaints and findings, accounting for almost half of the cases filed with the Commission annually. This workshop profiles retaliation in the federal sector while providing some dispositional and situational explanations for why retaliation occurs. The information presented in this session advances the discussion on federal sector retaliation by providing the audience with some of the less obvious dispositional and situational factors that should be considered when attempting to understand why retaliation occurs. We will also open the floor for discussion of potential recommendations for professionals interested in developing anti-retaliation training. **Presenters: Morgan Walls-Dines and Awo Sarpong Ansu Continental B**

H. **Successful Advocacy in Mediation** (Federal audience) This highly interactive and participatory session will prepare lawyer and non-lawyer advocates to achieve more successful outcomes when mediating EEO matters. Participants will learn what to expect, when and how to prepare for mediating EEO matters, what not to do during mediation and distinctions between mediating and litigating EEO matters. **Presenter: Michael Wolf Salon C-5**

3:00 p.m. - 3:30 p.m. - Mid-Afternoon Break Salon D

WORKSHOP SESSION VI: 3:30 p.m. – 5:00 p.m.

A. **It's on You: Creating a Culture of Civility in your Workplace** (Private/Federal audience) In June 2016, EEOC Commissioners Chai R. Feldblum and Victoria A. Lipnic issued a report based on their work with the Select Task Force on the Study of Harassment in the Workplace. The report includes new research and recommendations on harassment prevention, including recommendations regarding organizational culture. This panel will provide an overview of the report's findings and recommendations, and then will focus on how to create a culture of civility in your agency. **Presenters: Stephen Paskoff, Jim Paretti and Sharon Masling Continental A**

B. **Take it or Leave it: A Discussion on Selected Acceptance and Dismissal Issues** (Federal audience) Several years after EEOC's Office of Federal Operations published its report illuminating the significant number of remands of agency procedural dismissals, agencies still struggle to properly analyze which cases are appropriate for dismissal. This session will look at selected accept/dismiss scenarios, common and difficult, and explain the factors OFO uses in deciding whether to remand or affirm. **Presenters: Patricia St. Clair and Timothy Bladek Salon C-3**

C. **Discrimination at the Borderline of Legality** (Private/Federal audience) Some conduct in EEO cases straddles the border between legal and illegal behavior. We will look at harassment cases and disparate treatment cases that straddle the border of legal and illegal behavior in order to enhance for the practitioner and the organization an analytical approach to these cases. This session also addresses the underlying questions of why and how to discourage the workplace factors that produce "borderline" cases. **Presenter: David Handsher Continental C**

- D. **Performance, Conduct and Accommodation** (Federal audience) What if an employee asks for an accommodation for the first time after having been disciplined for poor performance or misconduct? When can you put an employee asking for a new accommodation on a PIP? How and when can you discipline for a conduct issue related to a disability? What if you think a disability is causing a performance or conduct problem but the employee has never requested accommodation? These are some of the issues explored in this session which looks at the interplay of performance and conduct standards and the duty to provide accommodations. Come hear what each agency can, and should, consider before they make any performance or conduct decision. **Presenter: Christopher Kuczynski International Ballroom South**
- E. **Ethics for Attorneys** This session is 3:30 p.m. – 5:30 p.m. (2 hour) for CLE credit. (Private/Federal audience) Earn that hard-to-get CLE credit by taking this two hour session on ethics for attorneys. **Presenters: Deborah Hamilton, Adele Rapport and Laura Feldman Salon C-5**
- F. **Understanding Compliance: A Guide to Agencies Role and Responsibility** (Federal audience) This compliance session empowers agencies with the information and tools to skillfully respond to any Commission order. Learn how to respond to an OFO order and what variables within your EEO program may trigger a Notice of Compliance. This session will provide plain language explanations for each scenario. This is broken in two-part session, participants will walk away knowing (1) how to complete a mandatory Compliance Report in response to satisfying an OFO order and (2) how to successfully respond to the types of Notice of Compliance. This session will also include a discussion on EEOC guidance on acceptable documentation, and the role of agency personnel responsible for EEO compliance. **Presenters: Stephanie Ross and Maria Kaplan Salon C-7**
- G. **Addressing Power Imbalances in Federal Employment Disputes** (Federal audience) Resolution of disputes in the Federal government presents classic power imbalances in a unique context. The panel will identify strategies to overcome such imbalances by exploring the following approaches: the availability of information; the use of subject matter experts; the inclusions of non-legal “moral support” participants; and the structure of employment dispute processes. The participants will also gain knowledge of specific opportunities and pitfalls of voluntary dispute resolution processes. **Presenters: Victor Voloshin, Marcia Thompson, Jane Juliano and Deirdre McCarthy Gallagher Salon C-6**
- H. **Get it Right the First Time: Investigative Interview Techniques** (Private/Federal audience) A good investigation is only as good as the person conducting it. Knowing the proper and varied investigative interviewing techniques and when to use them prevents us from filling the gaps in an investigation with our own opinion. This workshop will focus on the various types of interview techniques that can help or hurt the process. Attendees will understand the proper type of questions and when to use them and how the use of these techniques can facilitate the interview and allow the interviewer to get the relevant information the first time. **Presenter: Maria Flores Continental B**

THURSDAY, June 29, 2017, 8:30 a.m. – 10:00 a.m.

7:30 a.m. – 8:30 a.m. Continental Breakfast **Salon D**

8:30 a.m. – 10:00 a.m. PLENARY SESSIONS International Ballroom North

8:30 a.m. – 9:30 a.m. Keynote Speaker: *Dr. Shelton Goode*, Director of Diversity and Inclusion for Oshkosh Corporation

9:30a.m. – 10:00 a.m. EEO Trailblazers, Narrator Spencer Lewis – Powerpoint

10:00 a.m. - 10:30 a.m. - Mid-Morning Break Salon D

WORKSHOP SESSION VII: 10:30 a.m. – 12:00p.m.

- A. **Islamophobia 2.0** (Private/Federal Audience) During this session, we will look at the impact of the existing cultural environment, both on Muslim employees and on other employees' approaches toward Muslims. This session will be designed to assist in creating a more inclusive environment and suggest constructive ways to deal with issues surrounding Islamophobia. **Presenters: Gul Chaudhry and Awo Sarpong Ansu Continental C**
- B. **Mental Health Conditions in the Workplace: What Employers Need to Know** (Private audience) Mental health conditions are in the workplace. There are myths and stereotypes surrounding individuals with mental health issues that, when acted on, can create a huge risk for an employer. This session will address those issues that include performance, reasonable accommodation, workplace violence stereotypes and fears. Practical guidance and tips will be provided so that employers can create a culture of acceptance and value and minimize EEO risks. **Presenter: Edward Jepson, Jr. Continental A**
- C. **Mock Deposition of an HR Professional – The Names are Changed but the Lessons are Real** (Private and federal audience) In this session, an EEOC Regional Attorney who has been litigating employment cases for 30 years shares her valuable experiences in deposing the HR Professional. This mock deposition will be provided to illustrate valuable lessons and observe the answers of a solid HR Professional. **Presenters: Krista Watson and Laurie Elkin Continental B**
- D. **Mediation and the Unauthorized Practice of Law** (Private/Federal audience) Mediators with the best of intentions can end up engaging in the unauthorized practice of law (UPL). Many state bars are on high alert for UPL these days, and you do not want to tangle with your state bar. More importantly, you do not want to unwittingly cause problems for your mediation parties. Being aware of UPL becomes a way to ensure mediator best practices. This workshop will explore what mediators, both attorneys and non-attorneys, can and cannot do under model UPL guidelines, highlighting the expanded areas that are out-of-bounds for non-attorney mediators. **Presenter: Anne Bachle Fifer Salon C-5**
- E. **What's New in FedSEP** (Federal audience) Are you a FedSEP user? Learn about changes and enhancements to FedSEP, including the development and future deployment of a complementary Complainant Portal. **Presenter: Dann Determan and Alma Anderson Salon C-7**

- F. **Watch Your Step: Default Judgment and other Sanctions** (Federal audience) Starting with the Commission's decisions in Cox and Royal, the Commission has issued a series of decisions issuing or affirming the issuance of sanctions against agencies that fail to timely complete investigations, produce complaint files to the EEOC, conduct deficient investigations or fail to retain relevant information. When the Commission orders default judgment, the cost to an agency is potentially extremely high. This presentation will review the latest in the Commission's case law on sanctions and discuss how agencies can avoid them. **Presenters: Gary Gilbert, Laura Hoyson and Alison Smith-Lynn**
Salon C-4
- G. **The Intersection of the Rehabilitation Act and Workers Compensation** (Federal audience) Employers must often navigate between multiple laws including the Rehabilitation Act and Workers' Compensation when they have an injured employee. This session will explain how the Rehabilitation Act and Workers' Compensation laws apply in this type of situation and what to do when more than one law applies. Attendees will also learn what an employer should do when an injured employee requests a reasonable accommodation which often times includes leave. Come learn how to avoid a land mine when more than one law applies to the same injured employee. **Presenters: Eve Burton and Jeremy Wright**
Salon C-6
- H. **EEOC Guidance: Retaliation** (Private/Federal audience) We all know by now that retaliation for protected EEO activity is unlawful. But do we understand what retaliation is? Is it when a coworker becomes unfriendly after you file an EEO complaint? Is it a manager warning you "not to make a fuss" lest you hurt your chances for promotion? Or is it being denied a plum assignment? Does engaging in EEO activity mean you're protected from future discipline? Or entitled to special treatment? A senior attorney from EEOC's Office of Legal Counsel highlights the Commission's recent guidance on what has become the all-to-common basis of discrimination complaints. **Presenter: Jeanne Goldberg**
International Ballroom South

12:00 p.m. - 1:30 p.m. – Lunch International Ballroom North

WORKSHOP SESSION VIII: 1:30 p.m. – 3:00 p.m.

- A. **Federal Sector Case Updates Part 1** (Federal audience) You've been busy over the last year, and so has EEOC. Join EEOC federal sector staff for a lively and engaging discussion of the latest developments in Commission case law, including emerging issues in the federal sector. **Presenters: Elyssa Santos Abrams**
Continental A
- B. **What You Don't Know Can Hurt You and Others - Implicit Bias in the Workplace** (Private/Federal audience) This session will begin with demonstrations and discussion of judgment, perception, and memory examples that illustrate that we do not have complete control over our minds. An overview of research relating to implicit bias and the impact that this bias can have on the workplace will be presented. Participants will be provided with practical tips to minimize and manage the impact of implicit bias in the workplace. **Presenter: Maria Flores**
International Ballroom South

- C. **Conducting an Internal EEO Investigation** (Private audience) Internal EEO complaints arise frequently in the workplace. How that internal investigation is conducted means everything; a poorly conducted investigation can cost a company financially and damage morale and its reputation. A properly conducted investigation can help resolve matters and defend a company should a charge or lawsuit be filed later. This session will examine and discuss the basics of an internal investigation, use of an investigative plan, proper interviewing and the steps to take to insure that your investigations are prompt, thorough and impartial. **Presenter: Tom Lutkemeyer Continental B**
- D. **EEOC Guidance: Retaliation** (Private/Federal audience) We all know by now that retaliation for protected EEO activity is unlawful. But do we understand what retaliation is? Is it when a coworker becomes unfriendly after you file an EEO complaint? Is it a manager warning you “not to make a fuss” lest you hurt your chances for promotion? Or is it being denied a plum assignment? Does engaging in EEO activity mean you’re protected from future discipline? Or entitled to special treatment? A senior attorney from EEOC’s Office of Legal Counsel highlights the Commission’s recent guidance on what has become the all-to-common basis of discrimination complaints. **Presenter: Jeanne Goldberg Continental C**
- E. **Special Emphasis Programs: Building Successful Mission - Centric Programs** (Federal audience) With limited resources and limited time, many SEPMS struggle and are unaware of what tools and strategies are available to take their program to the next level. Successful Special Emphasis Programs identify and prioritize agency mission and are people focused. This session will discuss how to maximize employee engagement, leverage resources and form collaborative external partnerships for greater programmatic effectiveness. We will also explore forming groups and the power of group dynamics. **Presenters: Gul Chaudhry and Barbara Dougherty Salon C-4**
- F. **What’s New in 462** (Federal audience) EEOC’s Form 462 does a whole lot more than merely track federal agency complaints data. Come to this session to learn about the 2016 changes EEOC made to this collection device and how you can capitalize upon the information collected to help your agency strive to become a model EEO workplace. **Presenters: Jamie Price and Morgan Walls-Dines Salon C-5**
- G. **What to Do (or Not) at an EEOC Hearing** (Federal audience) Hear from experienced EEOC AJ’s about what you should and should not do during the EEOC hearing process. Topics covered will include initial status conferences, discovery, prehearing conferences, motions, including motions for summary judgment, and the actual hearing. Get tips to make your advocacy more effective. **Presenters: Diane Gross, Mary Palmer and Winston Jackson Salon C-6**
- H. **Settlement Strategies** (Private/Federal audience) This session focuses on successful approaches to settlement, including seeking early resolution of employment discrimination cases. The session will be from the perspective of experiences attorneys who represent employees and classes of employees. **Presenter: Jeremy Wright Salon C-7**

3:00 p.m. - 3:30 p.m. - Mid-Afternoon Break Salon D

WORKSHOP SESSION IX: 3:30 p.m. – 5:00 p.m.

- A. **Transgender in the Workplace** (Private/Federal audience) Learn what transgender is and isn't. You will also learn about the timely and relevant concept of gender authenticity and discover some significant advantages that accrue to gender authentic organizations. Transgender inclusion is now a global business expectation for successful companies as well as for the federal government. Learn how your organization can benefit by making trans people part of the fabric of your organizational culture. **Presenter: Vanessa Sheridan Continental A**
- B. **How Would You Handle This? Real Life EEO Situations Examined** (Private/Federal audience) When workplace EEO matters arise, the employer's response is the make or break in the situation. This session will explore some real life EEO situations and engage the attendees in resolving the situation. Participants will get accurate examples of what worked and what did not work and will walk away with practical tips to get it right each time. **Presenters: Debra Finney and Krista Watson International Ballroom South**
- C. **Mock Hearing** (Federal audience) Have you ever wondered what it was like to attend an EEO hearing? If so, this session is for you! This session is for those attendees who have never attended an EEO hearing or have a limited or basic understanding of what actually occurs in one. An experienced EEOC Administrative Judge will preside over a mock hearing before Agency and Complainant counsel. For those who are EEO counselors, investigators or otherwise involved in the process, this is your opportunity to see the end result of all of your efforts. **Presenters: Alison Smith-Lynn, Deborah Lisy and Gary Gilbert Salon C-3**
- D. **Legal Concepts in Mediation: Ideas that help Non-Lawyers (& Lawyers too)** (Private/Federal audience) How should a mediator respond when a party insists that they would rather tell the judge their whole story? Or when a party's lawyer complains that the statute of limitations is running? A basic grasp of legal terms, concepts and procedures can help a mediator better understand the context of the dispute; the alternatives if mediation doesn't succeed; and the strategies of parties' lawyers. Both lawyers and non-lawyers will learn how to use legal knowledge and information to make mediation more effective. **Presenter: Anne Bachle Fifer Salon C-5**
- E. **Conflicts of Interest under MD-110** (Federal audience) In 2015, EEOC issued its first major revision to MD-110 since 1999. Almost two years later, agencies still have questions -- particularly about their authority and responsibility to avoid conflicts of interest. In recognition of these lingering questions, this 90-minute session is dedicated to addressing MD-110's guidance on conflicts of interest, real and perceived, including the role of agency counsel and processing issues that arise when the alleged responsible management official is the agency head or an EEO manager. **Presenters: Patricia St. Clair and Awo Sarpong Ansu Continental B**

- F. **Federal Sector Case Updates Part 2** (Federal audience) You've been busy over the last year, and so has EEOC. Join EEOC federal sector staff for a lively and engaging discussion of the latest developments in Commission case law, including emerging issues in the federal sector. This session will feature different cases from Part 1. **Presenters: Elyssa Santos Abrams Continental C**
- G. **How to Prepare and Move Your Case Forward at the Initial Conference with the AJ** (Federal audience) This session will provide strategic information on how to prepare a case for EEOC's hearing process. The presenters will offer suggestions on how to efficiently utilize the initial conference with an EEOC Administrative Judge. **Presenters: William Macauley Salon C-6**

Closed Sessions (Specialty Tracks)

The sessions are **Hearings Preparations** and **MD-715 Barrier Analysis**

Hearings Prep Track (Tuesday, June 27, 2017 – Thursday, June 29, 2017)

The Hearings Prep Track is designed to provide participants with the opportunity to learn how to prepare for and participate in an EEOC hearing before an EEOC Administrative Judge under the guidance of experienced practitioners. The participants will be provided with a Report of Investigation and background materials. In the preparation phase, we will discuss each stage of preparing for an EEOC hearing from receipt of the Acknowledgment and Order, discovery, depositions, motions for summary judgment, identification of issues and witnesses, and preparation of witnesses. The participants will then participate in a mock hearing with an EEOC Administrative Judge including opening statements, examination and cross examination of witnesses, and closing statements. The Administrative Judge will then issue his/her decision. The participants will have an opportunity to discuss all aspects of the preparation for and holding of the hearing. **Presenters: Dwight Lewis, Valerie Chastain and Alexis Conway Salon C-1**

MD-715: Barrier Analysis (Tuesday, June 27, 2017 – Wednesday, June 28, 2017)

This two-day session covers all aspects of the barrier analysis process to include: legal and public policy foundations; analysis and interpretation of workforce statistics found in MD-715 data tables; trigger identification; barrier analysis investigation; organizing findings and preparing action plans designed to eliminate barriers; and follow-up on MD-715 reports from previous reporting cycles. The session will present hands-on simulations of actual situations typically encountered in preparing MD-715 reports. **Presenters: Earl Banks and Crystal Grant Salon C-2**