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www.hrwebstore.com newsletter@management-advantage.com 925-671-0404

The Center for Corporate Equality Calls for Transparency in OFCCP Reporting

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On March 11, 2010, the Center for Corporate Equality issued its annual report on enforcement results achieved by the Office of Federal Contract Compliance Programs (OFCCP).

Through *Freedom of Information Act* requests, this non-profit employer organization was able to obtain detailed data from OFCCP's 2008 records. Its staff of analysts published information that will help all federal contractors in their compliance efforts. This study resulted in specific information showing where OFCCP is spending its efforts, the differences among Regions in enforcement approach, and the financial results of contractor compliance evaluation settlements.

For the second year in a row, the study revealed that nearly all (95 percent) of all settlements nationally involved allegations of systemic discrimination in hiring. Only 5 percent of settlements involved allegations of systemic compensation discrimination.

Not one of the "glass ceiling" audits resulted in financial remedies of any kind. Almost half of all settlements resulted from alleged systemic discrimination against job applicants for entry or lower level positions in food service and manufacturing industries. Laborers and operatives were involved in about three-quarters of settlements.

Of interest was the fact that compliance evaluations took an average of 2.5 years to reach conciliation or consent decree. Technical violations were most often recorded for contractors failing to keep proper records. Failure to prepare adverse impact analysis was second in frequency, followed by lack of applicant tracking, failure to post jobs on state employment services, lack of employment test validation, and absence of action oriented programs and outreach to veterans and disabled veterans.

Study results will be reported at the National Industry Liaison Group meeting in July.

[SOURCE: Center for Corporate Equality, *A REVIEW OF OFCCP ENFORCEMENT STATISTICS FOR FISCAL YEAR 2008*, <http://www.cceq.org/PDFs/2008CARreport.pdf>]

NEW DIRECTION FOR OFCCP?

On February 16, 2010, Patricia A. Shiu, Director of the Office of Federal Contract Compliance Programs (OFCCP) hosted a “listening session” in San Francisco to gather public input about the changes needed in regulations related to Section 503 of the Rehabilitation Act.

She opened the session by saying, “It’s a new day at OFCCP.” Then she noted that, “20 percent of the American workforce is employed by federal contractors.” She said she intends to “bring the full force of OFCCP to ensure that federal contractor employees are treated fairly.”

In the past, Ms. Shiu noted, “only Blue Collar systemic cases were pursued by OFCCP. She indicated that she will refocus the agency on handling more than that. She hinted that affirmative action plan content and implementation will be more strictly enforced saying, “Affirmative Action Plans are a necessary tool to examine EEO in the workplace.” “If AAPs were looked at as a management tool they would help managers see problems down the road before they became” large and expensive. Parenthetically, she said, “Don’t think that health care reform is dead. It’s not.”

“Part of what we are doing at OFCCP is restoring the agency. Over the past eight years we sustained almost 30 percent cuts (in budget) and most of those cuts were Compliance Officers.” When talking about ways in which the agency measures its own performance Ms. Shiu said, “I don’t think the dollar amounts (collected as discrimination remedies) are a metric.”

“Don’t assume CSAL (Corporate Scheduling Announcement Letters) will be sent again.” We expect contractors to be ready to undergo an audit at any time without advance notice. We want to measure the readiness of contractors to explain their programs when we come knocking. Ms. Shiu bristled at the use of the word “burden” by one of the contractors. She said AAP requirements are not a burden. They are a cost of doing business with the federal government. Another contractor said she talks about them as “customer requirements.”

OSHA OBTAINS COURT ORDER AGAINST CONSTRUCTION CONTRACTOR

The Department of Labor’s Occupational Safety and Health Administration (OSHA) has obtained a Contempt of Court order against three owners of a St. Louis, MO construction firm. The order stems from ignoring numerous citations and court orders involving serious violations related to fall hazards, scaffolding erection deficiencies, power tool guarding and other hazards. The Eighth Circuit Court of Appeals imposed sanctions including order that immediate payment be made on a \$258,582.08 citation and \$100 daily penalty calculated from the date of default in 2008.

http://www.osha.gov/pls/oshaweb/owadisp.show_document?p_table=NEWS_RELEASES&p_id=17154

Contractors can expect OFCCP to spend more time critiquing AAP content and making on-site visits more often than in the recent past. ALL Recovery Act contractors will receive full-blown on-site audits.

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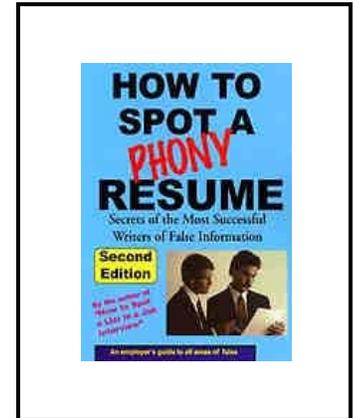
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How to Spot a Phony Resume

Finally! An employer's guide to all areas of false resumes, references, transcripts, certificates, personal identification and much more. If you have responsibility for hiring employees in your organization, you will want to have this book by your side as you process each candidate. **Human Resource Managers** nearly universally complain that resumes they receive from job candidates are inflated in content. This book can end your concerns.

<http://www.management-advantage.com/products/resume-book.htm>



POTPOURRI

- **EEOC Recovered \$376 Million for Discrimination Claimants in 2009**

The Equal Employment Opportunity Commission (EEOC) announced in January that it recovered \$376 million from employers as a result of findings of illegal discrimination. \$294 million was recovered through administrative enforcement and mediation, the balance (\$82 million) was obtained through litigation. The Commission resolved 85,980 private sector charges in FY 2009. During that same year, 93,277 new charges were filed with the agency.

<http://www.eeoc.gov/eeoc/newsroom/release/1-6-10.cfm>

- **New EEOC "Open Government" Report on Web**

EEOC has created a new Open Government page, which it launched on February 5th. That page, at <http://www.eeoc.gov/open/>, offers a one-stop location for EEOC statistics and other performance-related materials, and will soon also provide tools for the public to interact with the EEOC about information the agency provides and work it does. The page will eventually carry the agency's comprehensive Open Government Plan.

"Posting the latest aggregate EEO-1 survey results on Data.gov is the first step in what will be a larger EEOC effort to advance the President's goal of opening up our government and providing greater access to agency information and operations," said EEOC Acting Chairman Stuart J. Ishimaru. "We look forward to working with stakeholders as we create and implement our Open Government plan."

<http://www.eeoc.gov/eeoc/newsroom/release/2-5-10.cfm>



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NATIONAL CENSUS DAY COMING APRIL 1,2010

Every ten years, the U.S. Bureau of the Census is charged with the responsibility for counting every person in the country. Demographic data are assembled based on input from people, including all employees. Part of the data collected will become part of the EEO File and will eventually be used by federal contractors to prepare computed availability for minorities and women in their various recruiting territories.

Some key dates to remember...

- March 2010 – The Bureau will mail Census 2010 questionnaires out to all households.
- April 1, 2010 – “Census Day” is designated the day on which the snapshot of America is taken.

Find more information at <http://2010.census.gov/2010census/index.php>

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The Management Advantage, Inc.

PO Box 3708
Walnut Creek, CA 94598
925-671-0404

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Editor: William H. Truesdell, SPHR

billt@management-advantage.com

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