

The Office of Equal Opportunity and Diversity (OEOD) E-News

A quarterly electronic newsletter with the latest information on policies and programs related to diversity, discrimination, retaliation and sexual harassment.

New Cycle of Mandatory AB 1825 Workshops for Supervisors & Academic Appointees

Effective January 1, 2005, UCI supervisors and academic appointees are required to take a two-hour sexual harassment prevention education course every two years. We are now in a “retraining year” and all of those who satisfied their requirement during the initial compliance period (prior to January 1, 2006) will need to take a two-hour course again by December 31, 2007. Those who completed a course in 2006 or later will not have to take the revised course this calendar year. However, they will be required to complete a course two years from the date they last completed it. New supervisors or academic appointees have six months in which to satisfy the requirement. Go to <http://www.sho.uci.edu/> for more information, including upcoming workshop dates.

Did You Know?

Have you ever heard of Intersectional Discrimination? Title VII of the Civil Rights Act of 1964 prohibits discrimination not just because of one protected trait (e.g., race), but also because of the intersection of two or more protected bases (e.g., race and sex). For example, Title VII prohibits discrimination against African American women even if the employer does not discriminate against White women or African American men. This springs from a case decided in the 5th Circuit Court of Appeals in 1980. In *Jeffries v. Harris County Community Action Association* the court found that “...we hold that when a Title VII plaintiff alleges that an employer discriminates against black females, the fact that black males and white females are not subject to discrimination is irrelevant.”

Interesting Cases

Individual Supervisors May Be Held Personally Liable For Retaliation

In *Jones v. The Lodge at Torrey Pines Partnership*, Jones worked as a restaurant manager for The Lodge at Torrey Pines, in San Diego, California. He claimed his supervisors made daily sexually derogatory comments to him while at work. When he complained to human resources, he was excluded from meetings and offered transfers and demotions to other company locations. Jones sued both the employer and defendant supervisor. The court held that consequences other than a termination or demotion, such as a transfer, a failure to invite the complainant to an important meeting, placing the complainant on probation, and/or reducing the complainant’s responsibilities may be the basis for an “adverse employment action” that may result in a finding of retaliation. The case also serves as a reminder that employers can be held strictly liable for the sexually harassing behavior of supervisors, and supervisors can be held personally liable for harassment and retaliation.

Fresno State Ordered to Pay Millions for Retaliation

On July 9, 2007, former Fresno State women’s volleyball coach Lindy Vivas won \$5.85 million in a gender discrimination suit against the university. Vivas’ coaching contract was not renewed in 2004. She claimed the university discriminated against her because of her perceived sexual orientation and because she advocated equal treatment for female athletes and access to the campus’ facilities. As an example of the unequal treatment of female athletes, Vivas alleged that

top athletics officials participated in “Ugly Women Athletes Day”. She said in April 2000, she walked into a department office and saw a poster that had vulgar cutouts of women’s bodies with male heads. The jury awarded Vivas one of the largest verdict awards ever for a coach alleging retaliation under Title IX. The university intends to appeal the decision. OEOD encourages everyone to remember that Title IX protects from retaliation coaches and others who speak up about gender bias.

Accommodations are Not Just for Disabilities

In June 2007 a jury decided the case of *EEOC v. Alamo Rent-A-Car* by awarding a Muslim woman more than \$287,000 in back pay and compensatory and punitive damages after her former employer, Alamo Rent-A-Car, refused to allow her to wear a headscarf while at work. In contrast to this decision, on August 1, 2007 a jury in the case of *EEOC v. Regency Health Associates* found in favor of a Muslim woman's employer after it refused her request to wear a full headpiece leaving only a slit for her eyes. The difference? Alamo failed to demonstrate what steps it took to attempt to accommodate their employee’s bona fide religious belief, or any proof that it entered into the bilateral communication necessary to come to a reasonable accommodation. Regency explained to their employee that given the nature of the pediatric practice and reasonable desire of child patients and parents to see the face of the medical staff providers, they would be unable to approve wearing of the full headpiece. In addition to this, Regency advised her that the company was also willing to consider what other reasonable accommodations could be made to the dress code policy. When faced with a request for a religious accommodation, such as wearing a *hijab* or any type of religious dress, engage in an open and respectful dialogue about the need for religious accommodation and learn specifics about what accommodation is requested. If the particular accommodation that is requested cannot be provided, then both parties should explore alternatives.

Upcoming Events

To find diversity-related events taking place at UCI, check out the calendar at www.eod.uci.edu. If your department is sponsoring a diversity-related event, please email information about the event to eod@uci.edu to be added to the OEOD event calendar.

Apply for 2008 Diversity Development Program!

Applications for participation in the 2008 Diversity Development Program are being accepted through November 10, 2007. The UCI Diversity Development Program (DDP) is a program that celebrates UCI's diversity while exploring issues that can arise in a diverse university community. To learn more about the program, go to www.eod.uci.edu/ddp.html. For a printed copy of the application, contact the Office of Equal Opportunity & Diversity at 949-824-5594 or eod@uci.edu or drop by 4500 Berkeley Place.