

U.S. DISTRICT COURT  
DISTRICT OF MARYLAND

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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND

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EQUAL EMPLOYMENT OPPORTUNITY  
COMMISSION,

Plaintiff,

v.

THE MARYLAND CLASSIFIED  
EMPLOYEES ASSOCIATION, INC.,

Defendant.

Case No. JFM-05-CV-0890

CONSENT DECREE

Plaintiff, the U.S. Equal Employment Opportunity Commission (the "Commission" or "EEOC"), commenced this action on March 31, 2005, in the United States District Court for the District of Maryland (Northern Division) against Defendant The Maryland Classified Employees Association, Inc. ("MCEA"). In its Complaint, the Commission alleged that Defendant engaged in unlawful employment practices by subjecting Charging Party Vance McDonald to retaliatory discharge in violation of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e, et seq. ("Title VII").

As a result of settlement discussions, the Commission and Defendant desire to resolve this action and all issues raised by the Complaint without the time and expense of contested litigation.

For the purpose of resolving this action, the parties acknowledge the jurisdiction of the United States District Court for the District of Maryland (Northern Division) over the subject matter

and over the parties to this case for the purpose of entering this Consent Decree and, if necessary, enforcing this Decree.

The Court, having examined the terms and provisions of the Consent Decree, finds that it is reasonable and just in accordance with the Federal Rules of Civil Procedure and Title VII. The entry of this Consent Decree will further the objectives of Title VII and will be in the best interests of the parties and those for whom the EEOC seeks relief.

This Decree constitutes a full discharge and satisfaction of any and all claims which have been alleged in the Complaint filed in this Title VII action by the EEOC based on the EEOC's determinations of discrimination regarding the charge filed by Vance McDonald (EEOC administrative charge number 120-2004-02387).

**NOW, THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED THAT:**

NON-DISCRIMINATION

1. Defendant, its officers, directors, agents, employees, successors, assigns, and all persons in active concert or participation with them or any of them shall comply with all provisions of Title VII and are enjoined from any present or future violations of Title VII. Prohibited discrimination includes, but is not limited to, any discrimination because of conduct protected under Section 704(a) of Title VII.

NON-RETALIATION

2. Defendant, its officers, directors, agents, employees, successors, assigns, and all persons in active concert or participation with them or any of them shall not engage in reprisal or retaliation of any kind against any person because such person, either in the past or in the future: (a) opposed any practice made unlawful or reasonably believed to be unlawful under Title VII; (b) filed a charge of

discrimination with the Commission or any fair employment practices agency; (c) was identified as a potential witness for the EEOC in an action; (d) requested and/or received relief in accordance with this Decree; (e) participated in any manner in an action under Title VII or in any investigation giving rise to such action; or (f) asserted any rights under this Decree. In this regard, Defendants shall not take any action against any person(s) which constitutes intimidation, coercion, retaliation, harassment, or interference with the exercise of such person's rights under Title VII because of the filing of Charge No. 120-2004-02387 with the EEOC, which form the basis for this case, or because such person(s) gave testimony or assistance, or participated in any manner in any investigation or proceeding in connection with this case under Title VII.

3. Defendant shall submit written reports to the Commission if, during the term of this Decree, it takes any adverse action, disciplinary or otherwise, against any person whom the Commission and/or Plaintiff-Intervenor Vance McDonald disclosed to Defendant during this action as a person with relevant knowledge or a potential or anticipated witness. Such reports shall be submitted within thirty (30) days of any such adverse action, shall be provided in a written narrative in the form of a declaration made under penalty of perjury, and shall set forth the following information: (a) the full name and title of the person against whom adverse action was taken; (b) the full name and title of all persons who participated in any manner in the decision to take the adverse action; (c) as to each such person, their specific role in the decision; (d) the date of any and all meetings or communications in which the discharge was discussed, the identities of the parties to those communications and attendees at the meetings, and a summary of each communication; and (e) the reason(s) Defendant took adverse action, as well as any facts supporting those reasons. The aforementioned report shall be delivered to EEOC's Baltimore Field Office to the attention of the

Regional Attorney.

RECORD-KEEPING

4. Defendant shall comply with all applicable record-keeping requirements of Title VII and the Commission's regulations, including but not limited to, 29 C.F.R. § 1602.14.

COVERED FACILITIES

5. The provisions of this Consent Decree shall apply to all of Defendant's facilities.

DURATION OF DECREE

6. This Consent Decree shall be in effect for a period of two (2) years from the date it is entered by the Court.

MONETARY RELIEF

7. Defendant shall pay monetary relief to Charging Party Vance McDonald in the amount of \$35,000.00 in monetary relief. Of this monetary relief, \$12,000 shall be paid to Edelstein, Radford & Perkinson on August 12, 2006. The remaining \$23,000 shall be paid to Vance McDonald in five installments. The first payment of \$15,000 shall be paid on August 12, 2006. The second payment in the amount of \$2000 shall be paid on September 12, 2006. The third payment in the amount of \$2000 shall be paid on October 12, 2006. The fourth payment in the amount of \$2000 shall be paid on November 12, 2006. The fifth payment in the amount of \$2000 shall be paid on December 12, 2006. Defendant shall mail the aforementioned payments to Mr. McDonald by certified mail at an address to be provided by EEOC. Within three (3) days of such payment, Defendant shall send a photocopy of the check payable to Vance McDonald, along with a photocopy of the Certified Mail receipt, to EEOC Supervisory Trial Attorney Tracy Hudson Spicer at the EEOC's Baltimore Field Office. Failure to make this payment within the time set for payment in this subparagraph shall

constitute a material breach of the parties' agreement and noncompliance with this Decree for which Defendant shall pay additional damages and penalty in the amount of one hundred dollars (\$100) per day to Vance McDonald for each day Defendant is late in making said payment to Mr. McDonald, plus interest compounded at the IRS quarterly rate for unpaid taxes, for all payment in arrears by Defendant.

8. In the event that the above-referenced payment cannot be delivered to Charging Party Vance McDonald at the address provided, Defendant shall promptly contact EEOC Supervisory Trial Attorney Tracy Hudson Spicer or EEOC Senior Trial Attorney Ronald L. Phillips to obtain a current address for Mr. McDonald for the purpose of prompt Certified Mail delivery, or, if a current mailing address is not available, to otherwise make arrangements for prompt payment. Defendant shall thereafter promptly report any efforts made to deliver payment and shall exercise due diligence to complete such delivery.

9. After the conclusion of the present calendar year, Defendant shall promptly issue to Vance McDonald an IRS Form 1099-Misc for the monetary relief.

#### OTHER CHARGING PARTY REMEDIES

10. Not later than fourteen (14) days after entry of this Decree by the Court, Defendant shall provide to Charging Party Vance McDonald a positive letter of recommendation, to be agreed upon by the parties prior to entry of this Decree.

11. Defendant shall answer any inquires about Charging Party Vance McDonald from his prospective employers by providing a neutral reference stating that he was employed by Defendant, the dates of his employment, and his position. Defendant shall not provide any further information

about Mr. McDonald to prospective employers, including but not limited to any assessment of his job performance, this Consent Decree, this Action, the charge of discrimination filed by Mr. McDonald, his allegations of discrimination, or any personal information concerning Mr. McDonald.

EQUITABLE RELIEF: REPORTS TO EEOC OF DISCRIMINATION  
ALLEGATIONS AND WITNESSED CONDUCT

12. Defendant shall submit written notification to the Commission regarding any and all complaints or reports of retaliatory harassment and/or retaliatory discrimination and any action taken by Defendant in response to the complaints or reports, as well as all documentation related to the allegations, investigation and disposition of the complaint or report. Defendant's notification to the Commission must be sent to the Commission's Baltimore Field Office, to the attention of the Regional Attorney, within thirty (30) days of any complaints or reports to managers, supervisors or person designated by Defendant. Such notifications must be updated and sent to the Commission's Baltimore Field Office every thirty (30) days thereafter until final action is taken by Defendant on the complaint or report. Defendant shall append to all notifications required by this provision of the Decree any and all documents generated or obtained in the course of their investigations, including, but not limited to, any investigatory reports, memoranda, notes, witness statements, affidavits or other investigation-related materials.

EQUITABLE RELIEF: POLICIES AND TRAINING

13. Defendant shall adopt and adhere to the anti-harassment/anti-discrimination policy set forth in Attachment A. Defendant shall distribute a copy of their anti-harassment/anti-discrimination

policy to all current officers, employees and independent contractors within twenty-one (21) days of the entry of this Consent Decree by the Court. Defendant shall provide a copy of this policy to all new officers, employees and independent contractors hired during the operation of this Decree on such person's first day of work. With regard to any persons whom Defendant determines are limited in the ability to read and understand the English language, Defendant shall make all objectively reasonable efforts to explain the above-referenced policy to such persons by means of communication that such persons understand. Defendant may not delete or alter the meaning of any of the content of the policy set forth in Attachment A. However, Defendant shall be free to increase the protections afforded by this policy by (a) designating additional avenues of complaint for potential victims and/or (b) defining and prohibiting forms of discrimination not expressly prohibited by federal statutes enforced by the EEOC as of the date of entry of this Decree, including but not limited to discrimination because of sexual orientation or marital status and/or (c) modifying the policy to conform to changes in controlling law.

14. Defendant shall require any and all current and future managers, supervisors, and persons designated to receive and/or investigate complaints of harassment and/or discrimination to attend training regarding the requirements of Title VII, with particular emphasis on (a) sex/sexual and retaliatory harassment and other forms of sex/sexual and retaliatory discrimination and (b) taking prompt and effective action to prevent, investigate and correct such harassment and discrimination. Such training is to be not less than four (4) hours in duration and provided by a third-party at the expense of Defendant, with format and content of training subject to review by the Commission. The training must be conducted within three (3) months after entry of this Decree and six (6) months after the commencement of employment for all new hires in such positions. The EEOC must be

notified, in writing, as to the identity and qualifications of the trainer, all content of such training (including training manuals and handout materials), method of presentation, length of training course(s) and the names and job titles of attendees within one (1) month of such training. Defendant shall have the option of videotaping the first four-hour training session and then fulfilling its duty to provide any subsequent training sessions required by this Decree by requiring attendance of trainees at a viewing of the videotape. Any trainee who receives training by viewing a videotape of a previous session shall be given the name and telephone number of a Defendant contact person and instructed to direct any questions regarding the content of the training to that contact person.

15. Defendant shall provide a four (4) hour training session to all current and future employees regarding the anti-harassment/anti-discrimination policy set forth in Attachment A on each such employee's first day of work, or in the case of current employees, within thirty (30) days of entry of this Decree.

#### EQUITABLE RELIEF: POSTING OF NOTICE

16. Defendant shall post copies of the Notice attached as Attachment B in a conspicuous location at all of their facilities and at all places where employee notices are posted. The Notice shall be posted for a period of two (2) years, with such period commencing upon entry of this Decree. Such Notice shall be typed legibly using not less than twenty-four (24) point font. If multiple pages are used for each such Notice, they shall not be displayed one page behind another but must be posted so that all pages are in order and simultaneously visible (i.e., in horizontal row or vertical column configuration). In addition, Defendant shall post notice of all applicable federal equal employment opportunity laws and all other notices required by law. In the event that any of aforementioned



notices becomes defaced, marred or otherwise made unreadable, Defendant shall immediately post a readable copy of such notice(s).

#### DISPUTE RESOLUTION AND COMPLIANCE

17. This Court shall retain jurisdiction to enforce the terms of this Decree and will have all available powers to enforce this Decree, including but not limited to monetary sanctions and injunctive relief.

18. Upon motion of the Commission, this Court may schedule a hearing for the purpose of reviewing compliance with this Consent Decree. Prior to such motion, the Commission shall notify the Defendant, in writing, of the alleged non-compliance. Upon receipt of written notice, Defendant shall have fifteen (15) days to either correct the alleged violation, and so inform the other party, or deny the alleged violation, in writing;

A. If the parties remain in dispute they shall attempt in good faith to resolve their dispute;

B. If the parties can not in good faith resolve their dispute, the Commission may file with the Court a motion to correct and remedy the breach;

C. Each party shall bear its own costs, expenses and attorney's fees incurred in connection with such action; and

D. Jurisdiction to resolve any dispute arising under this Decree resides in the United States District Court for the District of Maryland.

19. The Commission, its agents and employees shall in their discretion have the legal right to enter any of Defendant's facilities, without any prior notice to the Defendant, and conduct an on-site

inspection to ensure compliance with Title VII and any of the terms of this Decree. Such inspections may, at the discretion of the Commission, include access to any and all documents for the purposes of inspection and duplication; interviews or depositions of any persons; inspection of any area within the facility; and any other investigatory technique or procedure permitted by Title VII or the Commission's regulations. The Commission may at any time move the Court for a hearing for the purpose of compelling Defendant to cooperate in any aspect of on-site inspection under the terms of this Decree. Neither the Commission's right to conduct on-site inspections nor any other provisions of this Decree shall be construed to limit or impair in any manner any other Commission right to conduct investigations of the Defendant that is provided by law, including, but not limited to, investigating charges of discrimination filed under Title VII, the Equal Pay Act ("EPA"), the Age Discrimination in Employment Act ("ADEA"), Title I of the Americans with Disabilities Act, and any statute over which the Commission is given jurisdiction in the future, and conducting directed investigations authorized under the EPA, the ADEA, and any future statute which authorizes directed investigations.

COURT COSTS AND ATTORNEY FEES

20. Each party shall bear its own court costs and attorneys' fees, except as specified.

**IT IS AGREED:**

FOR PLAINTIFF EQUAL EMPLOYMENT OPPORTUNITY  
COMMISSION

JAMES LEE  
Deputy General Counsel

GWENDOLYN YOUNG REAMS  
Associate General Counsel



JACQUELINE H. MCNAIR

Regional Attorney

EEOC-Philadelphia District Office

City Crescent Building, 3<sup>rd</sup> Floor

10 South Howard Street

Baltimore, MD 21201

Office #: (215) 440-2666

Facsimile #: (215) 440-2764

Dated: 8/16/06



TRACY HUDSON SPICER

Supervisory Trial Attorney

EEOC-Baltimore Field Office

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10 South Howard Street

Baltimore, MD 21201

Office #: (410) 962-4623

Facsimile #: (410) 962-4270/2817

Dated: 8/16/06



RONALD L. PHILLIPS

Senior Trial Attorney

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Baltimore, MD 21201

Office #: (410) 962-4628

Facsimile #: (410) 962-4270/2817


Dated: 8/16/06

FOR DEFENDANT THE MARYLAND CLASSIFIED  
EMPLOYEES ASSOCIATION, INC.

  
CRAIG F. BALLEW, ESQ.  
Ferguson, Schetelich & Ballew, P.A.  
1401 Bank of America Center  
100 South Charles Street  
Baltimore, MD 21201  
Attorneys for Defendant

Dated: 8/7/2006

FOR PLAINTIFF-INTERVENOR VANCE MCDONALD

  
PATRICK PERKINS, ESQ.  
Edelstein, Radford & Perkins  
110 Saint Paul Street, Suite 402  
Baltimore, MD 21202-1723  
Attorneys for Plaintiff-Intervenor

IT IS SO ORDERED:

DATE: 8/17/06  
8/15/06

  
HONORABLE J. FREDERICK MOTZ  
United States District Judge

## **ATTACHMENT A**

### **MARYLAND CLASSIFIED EMPLOYEES ASSOCIATION, INC.** **POLICY PROHIBITING HARASSMENT AND DISCRIMINATION**

MCEA has zero tolerance for harassment and discrimination. It is the policy of MCEA to maintain a work environment that is free from harassment and discrimination based on (1) sex (whether or not of a sexual nature), (2) national origin, (3) color, (4) race, (5) religion, (6) age, (7) disability, and (8) pregnancy, childbirth or related medical conditions, and from (9) retaliatory harassment and discrimination based on opposition to harassment/discrimination or participation in harassment/discrimination complaint proceedings. In addition, it is MCEA policy that no retaliation will be tolerated against any employee for reporting harassment or discrimination under this or any other policy or procedure, or for assisting in any investigation. **Harassment and discrimination violates both federal and state law and will not be tolerated.**

#### WHAT IS DISCRIMINATION?

The types of discrimination prohibited by this policy, and by federal and state law, include actions that relate to hiring, layoff, recall, firing, promotion, suspension and other discipline, pay, leave and other benefits, breaks, and all other aspects of the employment relationship. Decisions regarding these matters are not allowed to be based upon sex, national origin, color, race, religion, age, disability, pregnancy, childbirth or related medical conditions, or because someone has opposed harassment/discrimination or participated in harassment/discrimination complaint proceedings.

#### WHAT IS HARASSMENT?

Generally speaking, "harassment" is defined as **any unwelcome** verbal or physical conduct **based on** someone's sex (whether or not of a sexual nature), national origin, color, race, religion, age, disability, pregnancy, childbirth or related medical conditions, or because someone opposed harassment/discrimination or participated in harassment/discrimination complaint proceedings **when**: (1) the conduct negatively affects the work environment or (2) an employment decision affecting the employee is based on the employee's acceptance or rejection of such conduct. While there are many different kinds of acts that can constitute harassment (because there are many different ways a person may be mistreated for illegal reasons), **some examples include**:

- (a) sexual advances, sexual comments and innuendo, requests or demands for sex, offensive touching, sex-related jokes, etc.;
- (b) unwelcome comments about a person's attractiveness or her/his body, unwelcome statements expressing romantic interest in another person;
- (c) name calling, teasing, slurs, offensive visual displays/pictures/gestures, or any negative comments or jokes about a person's race, national origin, color, sex, religion, age, disability, pregnancy, childbirth or related medical conditions, actions in opposition to discrimination or participation in a discrimination complaint process;
- (d) acts of physical violence, threats of violence, or other acts that are physically threatening

in nature such as using one's body to "corner" another employee;  
(e) destruction or theft of another person's property;  
(f) interference with another person's work or attempts to interfere with that work;  
(g) disciplinary actions, threats of disciplinary actions and any other discriminatory acts; and  
(h) negative comments or offensive actions toward or about another person when the reason is the other person's race, national origin, color, sex, religion, age, disability, pregnancy, childbirth or related medical conditions, actions opposing harassment/discrimination or participation in a harassment/discrimination complaint process. This is harassment even if the victim's sex, national origin, etc. are not mentioned by the person doing the harassment. An example of this would be treating a person of sex or ethnic group differently from persons of another sex or ethnic group by calling him/her vulgar or insulting names or cursing at him/her.

#### WHO IS PROTECTED BY THIS POLICY?

Both federal and state law and this policy protects **all** employees and job applicants from harassment or discrimination by **any** person, including directors, officers, managers, supervisors, co-workers of any rank or position, contractors, vendors and members.

#### WHAT ARE THE CONSEQUENCES FOR VIOLATING THIS POLICY?

**Any person who engages in harassment or discrimination will be subject to appropriate disciplinary action, up to and including immediate firing. Furthermore, failure of a supervisor or manager to perform any of their responsibilities under this policy will result in appropriate disciplinary action, up to and including immediate firing.**

#### WHAT SHOULD I DO IF I BELIEVE THAT I AM BEING HARASSED OR DISCRIMINATED AGAINST?

Persons who believe that they are being harassed or discriminated against should report it to any supervisor, any management official, any MCEA officer, the President, or to [Defendant shall insert here name, title and telephone number of person designated to receive and take action regarding reports]. In addition, you have a right under the law to report harassment or discrimination to (A) the U.S. Equal Employment Opportunity Commission ("EEOC"), which is a U.S. Government agency that enforces the federal laws that prohibit harassment and discrimination, or (B) the Maryland Commission on Human Relations ("MCHR"), which is the State of Maryland agency that enforces state laws prohibiting harassment and discrimination. MCEA respects your right to contact the EEOC and MCHR and will not take any action against you because you have contacted either agency or have filed a written complaint (called a "Charge of Discrimination") with them. The EEOC can be reached at (410) 962-3932 or toll free at 1-800-669-4000. For the hearing impaired, TTY numbers are (410) 962-6065 and 1-800-669-6820. MCHR can be contacted at (410) 767-8600.

#### WHAT HAPPENS AFTER THERE IS A REPORT OF HARASSMENT OR DISCRIMINATION?

After a report of harassment or discrimination made by an employee, either about her/himself or about another person who may be harassed or discriminated against, MCEA will conduct a prompt, fair, and complete investigation. Until it completes the investigation, MCEA will also take necessary steps to make sure that there is no further harassment or discrimination against you. When the investigation is completed, MCEA will take appropriate corrective action as warranted. Reports made by employees and investigations of those reports will be kept confidential unless disclosure is required to complete the investigation or by law. **There will be absolutely no retaliation or negative action taken against you for reporting harassment or discrimination.**

#### WHO IS RESPONSIBLE FOR ENFORCING THE POLICY?

MCEA and its officers, directors, managers, and supervisors are responsible for enforcing this policy. We take that responsibility very seriously. All employees of whatever rank are also responsible for obeying the policy and for cooperating fully in its enforcement.

#### WHAT RESPONSIBILITIES DO MANAGERS AND SUPERVISORS HAVE UNDER THIS POLICY?

First and foremost, it is the duty of all MCEA supervisors and managers to obey this policy, including refraining from harassment and discrimination. You are expected to lead by example. The success of the MCEA depends on this. Also, it is the duty of all supervisors and management officials to monitor the workplace for harassment and discrimination. If you suspect that harassment or discrimination has taken place, even if no one has reported it to you, it is your duty to promptly report your observations and suspicions to the President and to [Defendant shall insert here name, title and telephone number of person designated to receive and take action regarding reports]. Furthermore, it is the duty of all supervisors and all management officials who receive a complaint of harassment or discrimination to promptly report the complaint to the President and to [Defendant shall insert here name, title and telephone number of person designated to receive and take action regarding reports]. Moreover, it is the duty of all supervisors and managers to know and understand this policy, and to provide answers to questions that employees may ask about the policy.

#### WHAT RESPONSIBILITIES DO ALL EMPLOYEES HAVE UNDER THIS POLICY?

All employees must refrain from engaging in any harassment or discrimination. In addition, all employees should promptly report any incidents of harassment or discrimination that they witness and fully cooperate with any investigations.

#### WHAT DO I DO IF I HAVE ANY QUESTIONS ABOUT THIS POLICY?

If you have questions about this policy, you may ask any supervisor, any management official, any MCEA officer, or [Defendant shall insert here name of person designated to receive and take action

regarding reports].





# EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

## NOTICE TO EMPLOYEES POSTED PURSUANT TO A CONSENT DECREE BETWEEN THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION, AN AGENCY OF THE UNITED STATES GOVERNMENT AND MARYLAND CLASSIFIED EMPLOYEES ASSOCIATION

This Notice is being posted pursuant to an Agreement between the Equal Employment Opportunity Commission (EEOC) and Maryland Classified Employees Association (MCEA).

Under Section 703 of Title VII of the Civil Rights Act of 1964, as amended:

It shall be an unlawful employment practice for an employer:

(1) to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his/her compensation, terms, conditions or privileges of employment, because of such individual's race, color, religion, sex, or national origin . . .

Sexual harassment is a form of sex discrimination under Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §2000e et. seq. Sexual Harassment may be defined as unwanted sexual advances or demands experienced in an employment relationship. The unwanted behavior may include, but is not limited to, verbal abuse and humiliation, leers, indecent

suggestions, physical touching and sexual assault. Harassment can be overt or subtle, and behavior that may be appropriate in a non-work setting may be unacceptable in the workplace.

Under Section 704 of Title VII of the Civil Rights Act of 1964, as amended it is an unlawful employment practice for an employer to discriminate or retaliate in any manner against any person because of opposition to any practice declared unlawful under Title VII or because of the filing of a charge, the giving of testimony or assistance, or the participation in any investigation, proceeding, or hearing under Title VII.

WE WILL NOT engage in any acts or practices made unlawful by the above sections.

MCEA will ensure that supervisory and all other employees abide by the requirements of the company's sexual harassment policy and commit that sexual harassment and retaliation will not be condoned.

You also have the right to file a charge with the Equal Employment Opportunity Commission, Baltimore Field Office, 10 S. Howard Street, 3<sup>rd</sup> Floor, Baltimore, MD 21201, 410-

962-3933 or [www.eeoc.gov](http://www.eeoc.gov).

**Date Posted:**

**Date Expires:**

**By:**

Maryland Classified Employees  
Association