



OSC UPDATE

Office of Special Counsel for Immigration-Related Unfair Employment Practices

The Office of Special Counsel for Immigration-Related Unfair Employment Practices (OSC) investigates and prosecutes allegations of national origin and citizenship status discrimination in hiring, firing, and recruitment or referral for a fee, as well as unfair documentary practices during the employment eligibility verification process and retaliation under the anti-discrimination provision of the Immigration and Nationality Act (INA). In addition, OSC conducts outreach aimed at educating employers, workers and the general public about their rights and responsibilities under the INA's anti-discrimination provision.

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Leadership Change at OSC



Photo: Acting Deputy Special Counsel, Seema Nanda, with outgoing Deputy Special Counsel, Kay Baldwin.

After almost ten years as Deputy Special Counsel for the Office of Special Counsel for Immigration-Related Unfair Employment Practices (OSC), Katherine "Kay" Baldwin has joined the Office of the Assistant Attorney General for Civil Rights, as Special Counsel for Fair Employment. In her new position, Kay will lead efforts to ensure that all Justice Department law enforcement components continue to provide full equality of employment opportunity.

Kay has worked to eliminate employment discrimination for more 33 years. Prior to joining OSC, Kay served for seven and a half years as Chief of the Employment Litigation Section within the Justice Department's Civil Rights Division. From 1995 to 2001, Kay chaired the Attorney General's Advisory Committee on the Prevention of Sexual Harassment, which oversaw the establishment of policies and procedures to effectively prevent and eliminate sexual harassment throughout the Justice Department. In 1999, she received the Attorney General's Award for Equal Employment Opportunity for these efforts. At the direction of the Attorney General, she also oversaw review of the Justice Department's hiring procedures for law enforcement positions in the Marshal's Service, FBI, DEA and INS to ensure that these procedures afforded equal opportunity to minorities and women. Kay also worked in the Office of the Solicitor at the Department of Labor handling pattern or practice employment discrimination cases arising under Executive Order 11246.

Seema Nanda now serves as Acting Deputy Special Counsel at OSC. For the past 13 years, Seema has worked directly on labor issues and employment discrimination matters. Prior to joining the Civil Rights Division, she was a supervising attorney at the National Labor Relations Board's Division of Advice, a section that develops the General Counsel's legal theories in complex and high level cases. There, she drew recognition for her oral advocacy skills and was responsible for developing the General Counsel's arguments in sev-



OSC Employer Hotline:
1-800-255-8155
1-800-237-2515 (TDD)
OSC Worker Hotline:
1-800-255-7688
1-800-237-2515 (TDD)

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OSC Suspends Public Education Grant Program for FY2011

OSC regrets to announce that its long-running public education grant program has been suspended for Fiscal Year 2011 based on a lack of discretionary funds. It is unknown at present if discretionary funds will be available for a grant cycle during Fiscal Year 2012. Information on a possible resumption of the OSC public education grant program will be available on OSC's website in the future.

Since 1987, the annual public education grant program has been a major component of OSC's mandate to educate the public about the anti-discrimination provision of the Immigration and Nationality Act (INA). In the absence of a grant program, OSC remains committed to informing employers, workers and their advocates about workplace protections from citizenship/immigration status discrimination, national origin discrimination, discriminatory practices during employment eligibility verification, and retaliation.

Organizations that serve workers and employers are encouraged to contact OSC in order to explore informal partnerships designed to further OSC's public education mission.

USCIS Launches E-Verify Self-Check

On Monday, March 21, 2011, the U.S. Citizenship and Immigration Services (USCIS) launched E-Verify Self Check, a companion program to E-Verify that will allow U.S. workers to verify their own employment eligibility status. E-Verify Self Check is currently available for individuals who live in Arizona, Colorado, the District of Columbia, Idaho, Mississippi, and Virginia. Individuals who discover errors in their records will receive instructions on how to correct their records with the Department of Homeland Security and the Social Security Administration. More information is available at [E-Verify Self Check](#).

Temporary Protected Status Updates

Haiti - On May 19, 2011, the Department of Homeland Security (DHS) announced it was both extending the existing designation of Haiti for temporary protected status (TPS) for 18 months from July 23, 2011, through January 22, 2013, and re-designating Haiti for TPS for 18 months, effective July 23, 2011, through January 22, 2013. The extension allows current eligible TPS beneficiaries to retain their status through January 22, 2013. The re-designation of Haiti allows additional individuals who have been continuously residing in the United States since January 12, 2011, to obtain TPS, if eligible, including certain Haitians who arrived in the United States following the January 12, 2010, earthquake in Haiti.

In addition, Employment Authorization Documents (EADs) for Haitian TPS beneficiaries bearing an expiration date of July 22, 2011, and category A-12 or C-19 will be automatically extended for a six-month period, through January 22, 2012. Employers should accept these EADs as valid List A documents. Employers should not request proof of Haitian citizenship or ask for additional Form I-9 documentation if a worker presents an EAD that has been automatically extended.

For more information please see this USCIS [Fact Sheet](#) on the 18-month re-designation and extension. For more information on the automatic extension of EADs, see the Federal Register notice on Re-registration Procedures dated [May 23, 2011](#). For more information on the extension and re-designation of TPS, see the Federal Register notice dated [May 19, 2011](#).

Receive E-mail Alerts About OSC

Stay informed about OSC's latest news and initiatives by signing up for e-mail alerts through [Gov-Delivery](#). On the subscriber preference page, click "Civil Rights Division" and then "Immigrant Rights and National Origin Discrimination." You may select to receive OSC e-mail alerts about OSC News and Information, OSC's Newsletter, or E-Verify and TPS Resources.

Recent OSC Enforcement Activity

OSC Settles Document Abuse Claim Against LF Staffing Services Inc.

On April 8, 2011, OSC reached a [settlement agreement](#) with LF Staffing Services Inc., located in Cedar Rapids, Iowa, to resolve allegations that LF Staffing Services engaged in employment discrimination by improperly pre-screening job applicants and rejecting valid work authorization documents presented by certain groups of immigrant workers. OSC found that LF Staffing Services did not permit job applicants to begin the application process unless they were able to present documents sufficient to establish their employment eligibility and further failed to permit at least one individual who presented a valid Employment Authorization Document (EAD) to apply for employment. Under the terms of the settlement, LF Staffing Services Inc. paid \$1,100 in civil penalties and full back pay to the injured party. LF Staffing Services will also train its human resources personnel about employers' nondiscrimination responsibilities in the I-9 process, and will provide periodic reports to OSC.

OSC Settles Citizenship Status Discrimination Claim Against Wendy's Franchise Owners

On April 26, 2011, OSC entered into a [settlement agreement](#) with Restwend LLC, the corporate owner of several Wendy's restaurants in Maine, to resolve allegations that at least one of its restaurants engaged in employment discrimination by refusing to hire individuals believed to be non-U.S. citizens. According to the OSC's findings, since at least 2009 this Restwend-owned Wendy's instituted a policy of refusing to hire work-authorized individuals whom it believed to be non-U.S. citizens. Under the terms of the settlement, Restwend paid \$14,500 in back pay, plus interest, to a victim of its U.S.-citizen-only hiring policy, plus \$3,200 in civil penalties. OSC will also train Restwend's human resources personnel about employers' nondiscrimination responsibilities under the INA.

OSC Settles Allegations of Immigration-Related Employment Discrimination Against Maricopa Community College District

On May 16, 2011, OSC reached a [settlement agreement](#) with the Maricopa County Community College District in Arizona, resolving allegations that the district engaged in a pattern or practice of discrimination against non-U.S. citizens in the hiring and employment-eligibility verification process. The district, which consists of 10 community colleges and two skill centers, has paid \$45,760 in civil penalties and \$22,123 in back pay to settle a lawsuit filed by OSC on Aug. 30, 2010. According to OSC's findings, the district had a policy of requiring newly-hired workers who are not U.S. citizens, but who are authorized to work, to present specific documentation that is not required by federal law. Pursuant to that policy, at least two individuals were denied the opportunity to begin their employment despite having produced Form I-9 documentation sufficient to establish their employment eligibility. Under the terms of the settlement agreement, the district will alter its practices to ensure that U.S. citizens and non-U.S. citizens are treated equally in the employment eligibility verification process. The district has also agreed to train its human resources personnel about employers' non-discrimination responsibilities in the employment eligibility verification process, to produce Forms I-9 for inspection, and to provide periodic reports to the department for three years.

OSC Settles Citizenship Status Discrimination Charge Against Iflowsoft LLC

On May 17, 2011, OSC entered into a [settlement agreement](#) with Iflowsoft LLC, a computer programming services provider in Iselin, N.J., to settle allegations that Iflowsoft engaged in a pattern or practice of citizenship status discrimination by preferring to hire temporary visa holders over U.S. citizens. According to OSC's findings, Iflowsoft posted several job advertisements for IT professionals expressing a preference for temporary visa holders (specifically H-1B transfers and/or OPT candidates). The facially discriminatory advertisements deterred the charging party, a U.S. citizen, from ap-

OSC Leadership Change (cont'd)

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eral high-profile cases involving the rights of immigrant workers. Seema is a founding member of the DC chapter of the National Asian Pacific American Women's Forum, where she works closely with several immigrants rights and Asian American advocacy groups around Asian Pacific American issues; the chair of the Board of Directors of a nonprofit childcare center in Arlington, where she handles an array of personnel and staffing issues; and a founding board member of a new nonprofit in DC (Odanadi) that seeks to raise awareness and money to fight sex trafficking in India and globally. Seema joined OSC in 2010 as a Senior Trial Attorney.

Additionally, OSC Senior Trial Attorney Sebastian Aloom is now serving as an Acting Special Litigation Counsel. Sebastian has 35 years of legal experience and has worked at the Civil Rights Division for over 15 years. He has served in a wide range of positions throughout his career: in the U.S. Nuclear Regulatory Commission, the Republic of the Marshall Islands Nuclear Claims Tribunal, the Hawaiian Office of Hawaiian Affairs, and as Acting Attorney General for the Commonwealth of the Northern Mariana Islands. Since joining OSC in January 2005, Sebastian has been a lead attorney, reviewer or peer-advisor on the majority of the Section's matters that have resulted in formal settlement or litigation.

Elizabeth I. Hack, who joined OSC in February 2010, will continue to serve as a Special Litigation Counsel. Jennifer Sultan, who has been with OSC since 2002, will continue to be OSC's Acting Special Policy Counsel.

OSC Enforcement Activity (cont'd)

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plying to Iflowsoft. In addition, the department found Iflowsoft hired an H1-B visa holder without considering a qualified U.S. citizen applicant. Under the terms of the settlement, Iflowsoft paid \$6,400 in civil penalties and \$7,158.49 in back pay to two U.S. citizens who were qualified for the positions advertised and applied, or would have applied for the positions. Iflowsoft will also receive training on the INA

OSC Enforcement Activity (cont'd)

anti-discrimination requirements, adopt nondiscrimination policies with respect to recruitment and hiring, and maintain and submit records to OSC for the three-year term of the agreement.

OSC Settles Citizenship Status Discrimination Claim Against American Academy of Pediatrics

OSC reached a [settlement agreement](#) with the American Academy of Pediatrics (AAP), an organization of 60,000 pediatricians based in Elk Grove Village, Ill., resolving allegations that the organization impermissibly allowed postings on its www.PedJobs.org website that limited applications to U.S. citizens and certain visa holders. AAP paid \$22,000 in civil penalties. According to OSC's findings, PedJobs' employment postings for doctors, nurses and other professionals impermissibly limited applications to U.S. citizens and certain visa holders, even though other work-authorized immigrants should have been allowed to apply as well. Under the terms of the settlement agreement, AAP will monitor its job postings to ensure that work authorized individuals are treated equally.

OSC Settles Citizenship Status Discrimination Claim Against Canvas Corporation

On June 6, 2011, OSC entered into a [settlement agreement](#) with Canvas Corporation, a vending company based in Woodbury, N.Y., that contracts with various concessionaires at stadiums around the United States, to settle allegations that Canvas Corporation engaged in a pattern or practice of citizenship status discrimination by preferring to hire only U.S. citizens. The case originated when a lawful

OSC's Worker Brochure Translated

OSC's Worker Brochure, previously available only in English, is now available in Arabic, Burmese, Chinese, French, Korean, Nepali, Russian, and Vietnamese. These brochures provide examples of immigration-related unfair employment practices as well as contact information for OSC. To access the brochures, click [here](#).

Technical Assistance Letters Now Available on OSC's website

OSC frequently receives written requests for technical assistance regarding the anti-discrimination provision of the INA. OSC responds to these requests in writing by providing guidance on non-discriminatory practices. These "technical assistance" letters have often been made available to the public upon request but are now available on OSC's website for FY2011. To access the letters, click [Technical Assistance Letters](#).

OSC Enforcement Activity (cont'd)

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permanent resident responded to a Canvas Corporation job advertisement seeking U.S. citizen applicants for vendor positions. According to OSC's findings, Canvas Corporation rejected the resident because she is not a U.S. citizen. Canvas Corporation posted several job advertisements requiring U.S. citizenship and had a pattern or practice of rejecting non-U.S. citizen applicants, even though U.S. citizenship was not legally required. Under the agreement, Canvas Corporation has agreed to pay \$10,397 in back pay to the charging party, and \$13,400 in civil penalties. Canvas Corporation has also agreed to receive training on the anti-discrimination provision of the INA and to maintain and submit designated employment records to OSC for two years.

OSC Outreach Events

OSC fulfills its mandate to educate the public by participating in a wide variety of outreach events throughout the U.S. These events enable OSC to inform workers about their rights and employers about their responsibilities under the anti-discrimination provision of the INA.

During the last quarter, OSC participated in an Immigration Task Force Meeting hosted by the Queens Borough President's Office in Queens, NY; spoke on an immigration panel at the American Council on International Personnel (ACIP) annual symposium in Alexandria, VA; addressed the national conference of the U.S. Committee for Refugees and Immigrants in Arlington, VA and participated in Technical Assistance Program Seminars sponsored by the Equal Employment Opportunity Commission in Lexington, KY and Milwaukee, WI.

Below is a list of upcoming events at which OSC will speak:

July 22, 2011: **Oakland, CA** - Asian Pacific American Labor Alliance Biennial Conference

July 23-26, 2011: **Washington, D.C.** - Employee Rights Workshop at the National Council of La Raza Annual Conference

August 1-4, 2011: **Charleston, Columbia, Greenville, SC** - South Carolina Department of Labor, Licensing & Regulations training seminars

September 20-23, 2011: **Dallas, Austin, Houston TX** - Health and Human Services Commission Refugee Resettlement Program quarterly meetings

OSC welcomes proposals from organizations interested in hosting outreach events targeting workers, service providers or employers. Please send your requests for an OSC speaker to OSCCRT@usdoj.gov or speak directly with OSC's Public Affairs staff at (202) 616-5594.

OSC Hotlines

OSC's telephone intervention program is an innovative form of alternative dispute resolution. It allows a caller to OSC's worker or employer hotline to work informally with OSC's staff to resolve potential immigration-related employment disputes within hours or minutes, rather than months, without contested litigation.



Worker Hotline: 1-800-255-7688
Employer Hotline: 1-800-255-8155

U S D E P A R T M E N T O F J U S T I C E

Office of Special Counsel for Immigration-Related
 Unfair Employment Practices
 Civil Rights Division
 U.S. Department of Justice
 950 Pennsylvania Avenue, N.W. (NYA)



Main Number: (202) 616-5594

Toll Free Information Number and Worker Hotline:
 1-800-255-7688/(202) 616-5594 or 1-800-237-2515 (TDD for hearing impaired)
 (Language interpretation available)

Employer Hotline: 1-800-255-8155 or 1-800-237-2515 (TDD for hearing impaired)

Fax Number: (202) 616-5509

Website Address: <http://www.justice.gov/crt/about/osc>

Special Counsel
 Vacant

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 Seema Nanda

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**WE VALUE YOUR FEEDBACK! IS THERE A TOPIC YOU WOULD LIKE TO READ ABOUT IN OUR NEWSLETTER?
 EMAIL US AT OSCCRT@USDOJ.GOV**