



# EEO "Matters"

VOLUME 2 ISSUE 4

... dedicated to bringing you current items of interest on EEO, Diversity, and Alternative Dispute Resolution

DEC 2009

## Inside This Issue

**Admiral Mike Mullen reveals his stance on Diversity**

**ADAAA Changes**

**Significant Case Law**

**Announcement: EEO Intake procedures change**

**Hidden Disabilities and the Workplace**

**Points of Contact**

**Staff Profiles**

Editor: Cheryl McGuire

In observance of Disability Awareness month, the Fleet Readiness Center San Diego recently invited a group of vocational rehabilitation counselors from the State of California to tour the FRC facility to acquaint them with the work FRC performs, highlighting potential employment opportunities for their clients with physical and mental challenges. The day encompassed a meeting with the Director of Total Force Management, a tour of the facility and a meeting with HR to discuss recruitment strategies.

## Admiral Mike Mullen Reveals His Stance on Diversity

Excerpted from an article by John J. Kruzel American Forces Press Service

Mike Mullen, the senior military advisor to the country's first black president, places diversity in the military ranks as one of his top priorities. During a conference on the subject, the admiral discussed how his recognition of the value of a diverse U.S. fighting force is an education that spans his time in uniform.

One influence on Mullen was Charles Bolden, a retired Marine major general who made news this year when President Barack Obama appointed him as the first African American to head NASA. But before the two men ascended to the leadership roles they now hold, Mullen and Bolden were classmates at the Naval Academy in Annapolis, MD.

Bolden hailed from Columbia, South Carolina, which was then part of the...South where racial discrimination was often the rule, not the exception. "We came from different places, believe me," Mullen said. "And Charlie taught me that. And he taught me in such a graceful, dignified way ... as he was blazing trails that I didn't even understand."

A few years after the two midshipmen graduated from the academy, Mullen was a junior officer when then Chief of Naval Operations Adm. Elmo R. Zumwalt, Jr. instituted reforms to improve race relations in the Navy. "Zumwalt said, 'Boom! We're changing,'" Mullen said of jarring shifts the top Naval officer ushered in. "I was open to this."

"I would argue that [today] we're better .... in terms of making this a priority...." Mullen said. But he added that change should flow down from top military leaders, many of whom don't act aggressively enough on behalf of diversity or simply don't understand its importance. "If we don't understand it, we can't lead it," Mullen said, "even if we make it a priority."

In an Aug. 17, 2005 speech to the National Naval Officers Association in New Orleans -- just weeks before Hurricane Katrina devastated the city and highlighted racial inequities there -- Mullen told the audience that diversity is critical to the Navy's success. ...But Mullen today acknowledged that his presence sent mixed signals. The staff of Navy personnel he had surrounded himself with -- comprised entirely of white males -- did not square with the message he espoused. "I walked in

*Food for thought.....*

*Courage is contagious. When a brave man takes a stand, the spines of others are often stiffened.*

*You do  
not lead by  
hitting people  
over  
the head –  
that's assault,  
not leadership.*

*Dwight D.  
Fisenhower*

there with an all-white-male staff," he recalled. "One of the pieces of feedback I got from that visit was, 'Nice try, but what about your staff?' It was a big message." As a result, Mullen redoubled efforts to diversify his staff, exemplifying the kind of diversifying change he saw as necessary.

Two years after his speech in New Orleans -- and after he had adopted the kind of policies he had championed -- Mullen attended a poignant farewell ceremony for several outgoing members of his personal staff. "It was absolutely the best staff I'd ever had," he recalled. "And I can't remember if there was a white male on that staff." The conference Mullen helped launch on 17 September 2009 was the kick-off of the Military Leadership Diversity Commission, a congressionally-mandated group established in 2008 to look into how to best diversify the U.S. military. Some of the diversity challenges that remain are a dearth of minorities -- women, Hispanics, African Americans and other groups -- in senior leadership positions, officials said.

In a bold endorsement of military diversity, Mullen today said having a military that reflects the demographics of the United States is "a strategic imperative for the security of our country." One of the ways to create more parity among the makeup of senior officers is to give minorities more opportunities to shine, the admiral said. ...After acknowledging some of the challenges associated with his push, Mullen cited a promising statistic that came from his alma mater. At the Naval Academy, where four decades ago his classmate Charles Bolden blazed trails as one of the few black midshipmen, this year's incoming class comprises a student body in which one in three students is a minority. Underscoring the urgency at hand, Mullen said such midshipmen and other junior officers of today embody the flag officers of the future. "Whatever decisions we make right now, that's where we are for 30 years," he said.

**ADAAA changes**---On 1 January 2009, the Americans with Disabilities Act Amendments Act went into effect. While the basic definition of a disability remains the same, (a physical or mental impairment that substantially limits a major life activity, a record of such impairment or being regarded as having such an impairment) the ADAAA now construes the interpretation of disability much more broadly. For example, under the old rules if a diabetic condition was controlled by insulin, the person would not be considered disabled under the law. However, with the new regulation, mitigating measures such as insulin or a prosthesis (in the case of a lost limb) are not considered-the person is still disabled. The new law also spelled out a list of bodily functions which are now considered to be major life activities, such as malfunction of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions. Therefore people with abnormalities of these bodily functions are considered disabled under the law. Additionally, an impairment can be a disability even if episodic or in remission, such as cancer, entitling a person to reasonable accommodation. The list of major life activities has been expanded further to specifically include things such as bending, stooping, reading, thinking, concentrating and a host of others not listed. These changes were considered necessary to prevent limited interpretation of disability laws.

## Significant Case Law

### **Terminating early work schedule accommodation leads to liability for FBI**

Hamblin v. Department of Justice, Federal Bureau of Investigation, 109 LRP 57418 (EEOC OFO 09/03/09). The EEOC found that the complainant was subjected to disability discrimination when a new supervisor revoked the early schedule that was accommodating her bipolar disorder and placed her on a schedule that led to a decline in her performance and her termination. The agency could not show that allowing the complainant to remain on the early schedule was an undue hardship. An EEOC administrative judge found the complainant, a financial analyst with the Federal Bureau of Investigation, was subjected to disability discrimination when the agency placed confidential medical information in her official personnel file, revoked the work schedule that accommodated her bipolar disorder, and later terminated her employment. The agency accepted only the AJ's finding with regard to the medical information. On appeal, the EEOC reversed a portion of the agency's decision after finding no merit in its argument that the complainant was not a qualified individual with a disability because she couldn't perform the essential functions of her position. Instead, the EEOC found her prior appraisals indicated she was performing her work competently, but that a new supervisor's revocation of the schedule that had accommodated her disability led to her declining work performance and ultimate termination. The EEOC affirmed the AJ's award of \$10,000 in non-pecuniary damages. Thanks to Tracy Schulberg, CNIC Director of LR Programs, for this case law.

**ANNOUNCEMENT**

**A recent development in the processing of EEO complaints: Until 1 June 2009, all EEO complaint intakes were processed by Human Resources site offices and forwarded to the EEO office. In order to more efficiently provide service to our Region customers, the EEO office changed the process on 1 June 2009. All intakes are now filed directly with the EEO office Region point of contact (POC), Annette Nava. All intake activity should be directed to Ms. Nava, who can be reached at 619-532-1248. Managers, supervisors and employees should contact Ms. Nava to initiate the EEO process.**



*Man is immortal,  
not because  
he alone among creatures  
has an inexhaustible voice,  
but because  
he has a soul,  
a spirit  
capable of compassion  
and sacrifice  
and endurance.*

*Morgan Freeman*

**Hidden disabilities and the workplace**

We have always had employees in the workplace with hidden disabilities and that number is rapidly increasing. Hidden disabilities do not have to be a source of fear and avoidance. Education is the key to overcoming fears and dispelling negative perceptions. Recent employment trends dictate that employees and employers become more knowledgeable of all disabilities including those that are hidden.

**Hidden disabilities:** Include asthma, arthritis, heart disease, environmental illness, cancer, HIV/AIDS, chronic fatigue, psychiatric or mental illnesses, attention deficit disorder, hyperactivity disorder, multiple chemical sensitivity, traumatic (or acquired) brain injury and mild mental retardation. These disabilities are considered "hidden" because they are not visible or detected just by looking at a person. Even though a person's disability may be hidden, this does not diminish the fact that they may require an accommodation. If an employee states that they have a hidden disability, the employer should ask how the condition will affect the persons work and whether an accommodation is necessary. Two of the most common hidden disabilities in America are **Developmental Disabilities** and **Mental Disorders**.

**Developmental Disabilities:** Include mental retardation, epilepsy, tourette, autism, cerebral palsy, and learning disabilities. Some developmental disabilities may also be considered "hidden". A person with a developmental disability may have difficulty in areas including: self care, language, mobility, learning, independent living, self-direction, or self sufficiency. Rehabilitation, education, and job experience can lessen the effect of the developmental disability.

**Mental Disorders:** Include bipolar disorder, schizophrenia, major depression, obsessive compulsive disorder, panic disorder, eating disorders, etc. Psychiatric disabilities are also "hidden". People with this form of disability may have difficulty coping with daily stresses and their disability may interfere with their ability to think, feel, or relate to others. Most people with psychiatric disabilities must overcome obstacles related to attitudes and preconceived notions of their peers.

Cont'd on pg. 4

**EEO Staff:**

**Deputy EEO Officer**  
Mahealani Tolbert 532-1271

**Complaints Management****Team 1:**

Warren Robinson 532-1246  
Kendra Leatherwood 532-1047

**Team 2:**

Cheryl McGuire 532-2328  
Patty Corrales 532-2757

**Team 3:**

Marissa Marmolejo 532-1024  
Marcella Robles 532-1241

**Reasonable Accommodation**

Cheryl McGuire 532-2328

**Alternative Dispute Resolution**

Catheryn Cheyssial 532-3530  
Connie Cutner 532-1207

**EEO Counselors**

Annette Nava 532-1248  
Intake

Mona Gonzales 805-982-1406

**Model EEO Program**

Deb Baity 831-656-2480

DSN: 522

Fax: 619-532-1307



As the Deputy EEO Officer for Navy Region Southwest, Lani Tolbert and her staff serve a civilian population of 24,000. With 30 years of federal service, she has provided leadership to all HR specialties. She has received numerous awards for her work in EEO & has been credited for her community work in crisis intervention.



Deb Baity serves the Region as the Head, Center of Excellence for Model EEO Program issues. She holds a BA/Economics from Rutgers University and is located in Monterey, CA. Deb has served Navy as an Education Specialist, Principal Classifier, PMA, Deputy EEO Officer & Head of Staffing/Classification



Warren Robinson is the Senior EEO Specialist in the office and the complaints manager for Team 1, which serves Seal Beach/Corona and Lemoore/Fallon and all HR Coronado Activities, with the exception of the FRC. Warren is a graduate of the Naval Academy.



Marissa Marmolejo, Complaints Processing Manager for Team 3, services CNRSW, NMCCSD, NMCCP, NBVC, NFELC, and NSWC-PH. She has served in the arenas of EEO Counseling, ADR, and MD-715. She earned her BA in History and BBA from USD and would like to pursue a Masters degree.



Kendra Leatherwood, EEO Technician for Team 1, is working on a Master's degree in Public Administration from Keller School of Management. She looks forward to professional growth in the EEO office and an expansion of her role with regard to the EEO mission.



Marcella Robles, EEO Technician for Team 3, is currently pursuing an MPA at National University. She graduated from SDSU with a BA in Communication w/ a minor in Sociology, and would like to continue her career as an EEO professional.



As the Complaints Manager for Team 2, Cheryl McGuire services FRC/SPAWAR/NFESC. As Reasonable Accommodations Point of Contact she serves the Region. Cheryl holds Masters Degrees in Human Behavior and Counseling and is an active mediator.



Catherine Cheyssi, ADR Program Manager for NRSW, is returning from Department of Homeland Security. In 14 years with the Navy she has held various positions including EEO Counselor, Complaints Manager, and ADR Program Manager.



As the EEO Technician for Team 2, Patty Corrales serves NFESC/FRC/SPAWAR. She brings a wealth of HR experience to the position. Patty is currently pursuing a BA and developing a career as an EEO professional.



As an ADR Specialist, Connie Cutner serves all of NRSW. She has many years of experience as an EEO Counselor, ADR Specialist and Mediator, and is gratified to hold a position which makes a difference in people's lives.



Mona Gonzales is an EEO Specialist at Naval Base Ventura County. She provides counseling to Region commands and additional EEO services to NBVC and 16 tenant commands including NSWC PHD, NFESC and NFELC. She has worked for Navy HR since October 1989.



Annette Nava serves all NRSW Commands as an EEO counselor and is the single point of contact for intake of EEO complaints. She has worked for Navy since 1998.

### Hidden Disabilities and the Workplace –Cont from p. 3

Discussions on disability awareness and sensitivity should be routinely included in Supervisory and Employee Training. The following is a list of tips to keep in mind when interacting with adults who have Hidden Disabilities in the workplace:

- ❖ Believe an employee when they disclose they have a disability. Minimize distractions in the workplace. Provide assistive technology, if needed, that supports learning styles. Allow extra time for reading, writing, and training. Ask for the best way to relay information.
- ❖ Please do not question the person's abilities or change your tone of voice, such as speaking louder or slower than normal.
- ❖ Please be patient as information may need to be repeated or provided in a different way or format.
- ❖ Please control your stress level and composure. Understand when the person appears hurried or overwhelmed.
- ❖ Be Patient! Understand the person with a hidden disability may feel emotionally lost or frustrated. Patience will make all the difference!
- ❖ In a crisis, stay calm and supportive. Find out how you can help, or if there is a person you can call or medicine that may be needed.
- ❖ Give detailed information on the location of restrooms, lunch room, drinking fountains, supply rooms, etc.
- ❖ Explain proper dress for the position, working hours, work location, pay rate, reporting officials, and transportation options.

Not only should training encourage sensitivity to effected employees but it should also include information on available resources. A team approach to address issues of reasonable accommodations and available resources is extremely beneficial. The team at a minimum should include the supervisor, reasonable accommodation POC and HR Specialist. Ad hoc members can supplement the team. – Special thanks to HRSC East for this contribution!