



July 8, 2011

Equal Employment Opportunity Commission
Commission Meeting
EEOC Executive Officer
131 M Street, N.E.
Washington, D.C. 20507
Via email: Commissionmeetingcomments@eeoc.gov.

Dear EEOC Commissioners:

Thank you for the opportunity to comment on Disparate Treatment in Hiring of Persons with Disabilities. Because of the extraordinarily high unemployment rate among people with disabilities, this topic and your work to combat hiring discrimination is of central importance to the disability community.

The Burton Blatt Institute (BBI) is a research, education, and outreach organization dedicated to advancing the civic, economic and social participation of people with disabilities worldwide. BBI has done extensive research, program development and education in the areas of disability-inclusive employer policies and culture, employer attitudes toward applicants and employees with disabilities, entrepreneurship for people with disabilities, vocational rehabilitation practices, assistive and accessible technology, implementation of the Americans with Disabilities Act (ADA), and reasonable accommodations costs and benefits.

Hiring discrimination against people with disabilities is a pervasive problem. Some discrimination is obvious, appearing in the form of exclusionary qualification standards, pre-employment inquiries about disability, and refusals to make accommodations in application and interview processes. However, disability discrimination is also a matter of attitude and those attitudes are not always expressed openly. As a result, often a person with a disability with high qualifications is not hired and receives no explanation. Because no explanation is given and the applicant does not have access to information about the other applicants, he or she cannot know whether the other applicants were more qualified or if discrimination was at work. One way to reach this hidden type of discrimination is through systematic testing, much as it is done in the fair housing context. We urge the EEOC to consider undertaking a thoughtful and scientifically rigorous testing program and to pursue appropriate enforcement actions against employers who discriminate on the basis of disability.

Another form of discrimination that is problematic is the use of inaccessible online job application systems and inaccessible online employment aggregator sites. By using inaccessible online application systems, employers, in effect, shut the front door to employment of people who are blind or have other print disabilities. The EEOC should make clear to employers that the technology they use to recruit job applicants must be fully accessible. Work-arounds, such as requiring blind applicants to apply by phone instead of online, potentially discriminate by limiting equal access (e.g., by requiring a telephone call during business hours), by requiring revelation of personal information to third parties, and by requiring blind individuals to reveal their disabilities at the pre-employment stage, which is generally prohibited by disability rights laws and may subject the applicants to intentional or unintentional discrimination.

We urge the EEOC to join its colleagues at the Department of Justice and Department of Education in making clear to covered entities that, when they use electronic and information technology, such technology must be fully accessible (see, e.g., Department of Education and Department of Justice “Dear Colleague” letters regarding educational technology). Nor may covered employers be permitted to avoid their accessibility obligations by contracting with inaccessible third-party online job application services.

We look forward to your efforts to prevent hiring discrimination against people with disabilities and are happy to work with you as you move forward. Please feel free to contact me with any questions.

Sincerely,

/s/

Peter Blanck
Chairman