U.S. Department of Veterans Affairs

Office of Diversity and Inclusion

# Diversity@Work

May 2015

WWW.DIVERSITY.VA.GOV

## Upcoming Events
**May 2015**

AAPI Heritage Month

Jewish American Heritage Month

National Mental Health Awareness Month

Older Americans Month

FAPAC NLTP
May 4–8; Rockville, MD

V-E (Victory in Europe) Day
May 8

Military Spouse Appreciation Day
May 8

Mother's Day
May 10

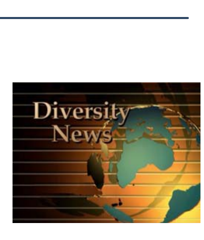
National Women's Health Week
May 10–16

Armed Forces Day
May 16

VACO AAPI Heritage Month Commemoration
May 21, noon–1 pm; Room 230

Memorial Day
May 25

## Training




**Diversity News** is a 15-minute bi-monthly video produced by ODI and the VA Central Office Broadcast Center for you. The May/June 2015 edition focuses on the State of the Agency for Fiscal Year 2014. *Diversity News* is available on the VA Knowledge Network, Content Distribution Network Channel 2. Current and past episodes are also available on the ODI Web site.

**Barrier Analysis** training will be offered on Thursday, June 18, 2015, from 1 to 4 pm. VA must create a barrier-free environment where all applicants and employees have the opportunity to compete and work to their fullest potential. The Barrier Analysis course covers all aspects of the barrier analysis process under Management Directive 715 to include analysis and interpretation of workforce statistics, trigger identification, barrier analysis investigation, preparing action plans, and following up on the action plan. This training will allow the participants to work through the majority of the process using VA specific workforce statistics. Attendees must register through the VA Talent Management System (TMS). For more information, contact Ms. Ryan Pugh.

**Federal Asian Pacific American Council (FAPAC)** 30th National Leadership Training Program (NLTP) will be held May 4–8, 2015, at the Rockville Hilton in Maryland. The no-cost VA Forum will be held on May 4, from 8 am to noon. Georgia Coffey will provide special remarks at the opening ceremony on May 5 and will serve as a panelist on May 7. Also on May 7, two VA employees will be presented with FAPAC Civilian Awards. Read about their accomplishments in next month's newsletter. Attendees must follow appropriate conference attendance approval procedures established for their respective organizations. Funding associated with attending the VA Forum and/or the FAPAC NLTP must be authorized by each employee's organization. Employees attending the VA Forum must register through the VA TMS. Employees attending the VA Forum and/or the FAPAC NLTP must also register through the VA Attendance and Cost Estimation System (ACES). For the intranet link address or more information, contact Andy Gonzalez, VA's National AAPI Employment Program Manager. Additional conference information such as registration costs, course descriptions, and schedules is available on the FAPAC Web site.

**Society of American Indian Government Employees (SAIGE)** 12th Annual National Training Program (NTP), no-cost Veterans' Track Program, and youth program to encourage college students to consider careers in Federal government will be held June 15–18, 2015, at the Treasure Island Resort and Casino in Welch, Minnesota. The no-cost VA Forum will be held on June 15, from 9 am to noon. Attendees must follow appropriate conference attendance approval procedures established for their respective organizations. Funding associated with attending the VA Forum and/or the SAIGE NTP must be authorized by each employee's organization. Employees attending the VA Forum must register through the VA TMS. Employees attending the VA Forum and/or the SAIGE NTP must also register through ACES. For the intranet link or more information, contact Ms. Aurelia Waters, VA's National AI/AN Employment Program Manager. Additional conference information is available on the SAIGE Web site.

**Federally Employed Women (FEW)** 46th NTP and Veterans Forum will be held July 13–16, 2015, at the Hilton New Orleans Riverside in Louisiana. ODI is currently planning a no-cost VA Forum. Attendees must follow appropriate conference attendance approval procedures established for their respective organizations. Funding associated with attending the VA Forum and/or the FEW NTP must be authorized by each employee's organization. Employees attending the VA Forum must register through the VA TMS. Employees attending the VA Forum and/or the FEW NTP must also register through ACES. For the intranet link address or more information, contact Mercedes Kirkland-Doyle, VA's National Federal Women's Program Manager. Additional conference information is available on the FEW Web site.

**Section 508** courses are on TMS. As the people who procure, create, edit, publish, or manage VA Electronic and Information Technology products, you must ensure that your products meet Section 508 standards. For more information, contact the Section 508 Program Office.

## ORM
**Important Contact Information**

Alternative Dispute Resolution can help with disputes.

To file a discrimination complaint, you must contact the Office of Resolution Management at (toll free) 888-737-3361 within 45 days of the date of the alleged discriminatory incident.

DEFENSE EQUAL OPPORTUNITY MANAGEMENT INSTITUTE POSTER

## Commemorate
**Asian American and Pacific Islander Heritage Month**

The U.S. Department of Veterans Affairs joins the Nation in commemorating May as National Asian American and Pacific Islander (AAPI) Heritage Month. The theme for this year's observance is "Many Cultures, One Voice: Promote Equality and Inclusion" and commemorates the many diverse cultures comprising the AAPI community.

As of September 30, 2014, AAPIs represented 7.56 percent of VA's permanent workforce (26,224 of 347,054 employees). VA employed 109,594 Veterans, of which 3.37 percent (3,693) were AAPIs. VA experiences less than expected participation of AAPI men when compared to the Relevant Civilian Labor Force. In addition, VA experiences less than expected participation of AAPIs at the GS 12–14 and Senior Executive Service/Title 38 equivalent pay grades when compared to the pay grade distribution of the total workforce.

VA will continue to develop and implement strategies to improve targeted outreach and career development programs and to ensure that all individuals, including members of groups with less than expected participation, are encouraged to apply. For more information, please contact your local Equal Employment Opportunity Manager; Andy Gonzalez, VA's National AAPI Program Manager; or visit VA's AAPI Employment Program Web page.

VA managers and supervisors are encouraged to support attendance at events and activities that recognize the contributions of AAPIs to our Nation. On Thursday, May 21, 2015, VA Central Office will commemorate AAPI Heritage Month in the G.V. "Sonny" Montgomery Veterans Conference Center, Room 230, at noon. This year's keynote speaker will be Rear Admiral Joseph M. Vojvodich, Director of Acquisition Programs and Program Executive Officer, U.S. Coast Guard. A sign language interpreter will be present. For more information about this event, contact Tynnetta Lee, Special Emphasis Observance Coordinator.

## From the DAS
**Georgia Coffey**

I am excited—as I hope you are—for the new look of our newsletter! To our regular readers, I hope you are as happy as I am about the newsletter's redesign, and think you'll find it easier to navigate.

I am also excited to announce that you can now submit nominations for the Secretary's Fifth Annual Diversity and Inclusion Excellence Awards Program. These awards recognize exemplary contributions by VA managers/supervisors, employees, and teams who work to create and sustain a diverse workforce and inclusive workplace. I encourage you to review the nomination process outlined on the Web site and consider nominating an outstanding diversity and inclusion champion you may know.

The Office of Diversity and Inclusion (ODI) recently submitted VA's Equal Employment Opportunity (EEO) Program Status Report for Fiscal Year (FY) 2014 and EEO Plan for FY 2015. This report presents the state of the agency in regards to six essential elements established by the Equal Employment Opportunity Commission required for a model EEO program. You can review VA's accomplishments and the challenges that remain in our collective effort to build a diverse workforce and inclusive workplace.

The Secretary's Annual Equal Employment Opportunity, Diversity and Inclusion, No FEAR, and Whistleblower Protection Policy Statement is now available online. Differences from last year's policy include the handling of discrimination and harassment complaints on the basis of sexual orientation as well as clarification on service animals and reasonable accommodation.

VA recently signed a Memorandum of Understanding (MOU) with Federally Employed Women (FEW). This MOU establishes a mutually beneficial partnership that fosters coordination, collaboration, and resource sharing in support of our common aim of increasing diversity in the leadership candidate pool.

Finally, please join me, the Department, and the Nation in commemorating numerous May observances including Asian American and Pacific Islander Heritage Month and Jewish American Heritage Month.

## Compliance Corner
**Reasonable Accommodation and Variable Schedules**

It is common for employees to request variable schedules as reasonable accommodations. Variable schedules can take many forms: delayed arrivals, early departures, part-time, or compressed. Sometimes the reasonable accommodation request for the variable schedule may be limited in time, such as during cancer treatment or recovery from an injury, or may be permanent, such as weekly dialysis treatments.

Variable schedules present many challenges for supervisors. What if the agency's Collective Bargaining Agreement (CBA) mandates that schedule changes must be based on seniority? How do you balance staffing and mission requirements with an employee's need for a variable schedule?

In a 2014 case, the Equal Employment Opportunity Commission found that the Department of Transportation discriminated against an employee being treated for cancer when it denied her request for a variable schedule based on the agency's CBA. The employee, who had breast cancer surgery, was prescribed Tamoxifen, a potent drug that is used to prevent the recurrence of breast cancer. The employee had difficulty working a regular eight-hour day schedule because of the drug's side-effects which included insomnia, hot flashes, nausea, dizziness, fatigue, depression, and inability to concentrate. As a reasonable accommodation, the employee first requested a variable week schedule which was approved by her supervisor. She then requested a "maxiflex" 5/4/9 schedule, but management denied her request, later advising her that the CBA disallowed both the maxiflex 5/4/9 schedule and her current variable schedule. The employee was then required to work a standard eight hour day, five days a week schedule.

The employee filed a formal EEO complaint alleging that the agency discriminated against her on the basis of disability when her request to work a maxiflex schedule was denied and the variable schedule was rescinded. Following an investigation, the agency issued a final decision finding that the employee did not establish that she was an individual with a disability covered under the Rehabilitation Act.

On appeal, the Commission found that the employee established that she was a qualified individual with a disability because her condition required ongoing treatment and future monitoring for a prolonged period of time. Further, she was required to take Tamoxifen and experienced serious side effects from the medication. The Commission held that the employee's condition was ongoing at the time she requested a reasonable accommodation. In addition, the record clearly demonstrated that she was able to perform the essential functions of her position. The Commission further found that the agency violated the Rehabilitation Act when it rescinded her reasonable accommodation of a variable schedule and failed to provide an effective alternative accommodation. The Commission noted that the agency failed to present the relevant portions of the CBA or other evidence to establish that the employee's variable schedule actually conflicted with the terms of the CBA. The agency was ordered, among other things, to determine whether and what reasonable accommodation the employee required, restore any leave she used due to the agency's failure to provide accommodation, and investigate her claim for damages.

Also in a 2014 case, the Office of Employment Discrimination Complaint Adjudication (OEDCA) found that a VA employee was denied a reasonable accommodation when his request for a permanent fixed tour of duty was denied. In January 2012, the employee broke his ankle while at home. In May 2012, he was in a car accident that was caused by medication and legs spasms associated with his broken ankle. The employee requested a fixed tour of duty as a reasonable accommodation so that he could use public transportation to commute to work. The facility agreed to provide the employee with a fixed schedule for 90 days but refused to make it permanent. The employee was advised that if his disability did not improve after the 90 day period, he would have to request another reasonable accommodation, a reassignment, or explore "retirement options". Prior to the end of the 90-day period, the employee submitted medical information that he should limit high risk activities like driving. The medical documentation also stated that the employee still had pain in his ankle and continued to be on medication. When the 90-day period was over, the employee was told to resume his shift schedule. Agency officials, citing undue hardship, stated that they could not accommodate the employee's permanent fixed schedule request because his position was designed to have a rotating shift to serve the facility's patients. They also testified that no other employee had a fixed schedule and that providing the employee with a fixed tour of duty could potentially cause morale issues with the rest of the staff.

OEDCA found that while management officials accommodated the employee's request for a fixed schedule for 90 days, it failed to accommodate his disability after the 90 day period ended. The Rehabilitation Act contemplates an interactive process between the employee and management. The interactive process is triggered upon notification of the disability and need for accommodation. In this case, agency officials failed to engage in the interactive process with the employee where they could have determined if in fact he needed a reasonable accommodation to perform the essential functions of his position, and if so, what accommodation would best serve the employee and the agency. However, management officials cut off the interactive process when they notified the employee that if he did not improve after the 90-day period, his only options were to find a new position, retire, or resume regular rotating shifts.

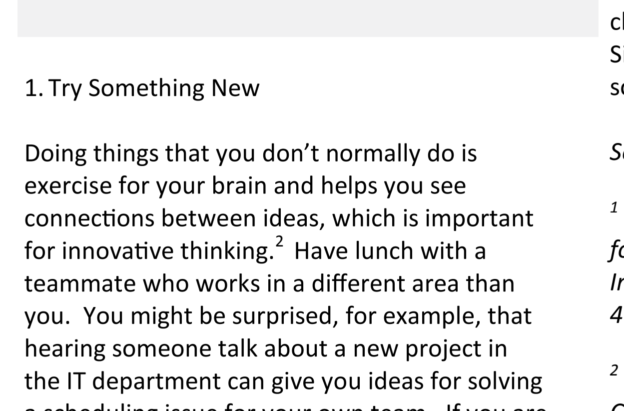
Finally, OEDCA rejected the agency's argument that giving the employee a fixed schedule constituted preferential treatment, and could potentially lower morale. There was no evidence in the record to establish that granting the employee a fixed schedule would cause an undue hardship. And this argument was undercut because the agency did give the employee a fixed schedule for 90 days. OEDCA further noted that the potential of lower staff morale is not the type of undue hardship contemplated by the Rehabilitation Act.

—Maxanne R. Witkin, Director, Office of Employment Discrimination Complaint Adjudication

## MyCareer@VA
**Innovation Tips and Tricks to Help You Succeed at Work**

Innovation isn't just about the latest tech gadget or newest car. Innovation happens at VA every day – when employees find new solutions to challenges, big and small. That's why being innovative is a core characteristic of all VA employees and part of the I CARE approach. Being innovative is also a career skill that will help you in your job today and in the future. Learning how to be innovative helps you to be more effective and satisfied at work.[1]

Like any skill, you can practice being innovative and get better at it over time. Here are four things you can do today to become a better innovator.




1. Try Something New

Doing things that you don't normally do is exercise for your brain and helps you see connections between ideas, which is important for innovative thinking.[2] Have lunch with a teammate who works in a different area than you. You might be surprised, for example, that hearing someone talk about a new project in the IT department can give you ideas for solving a scheduling issue for your own team. If you are looking for ways to meet new people, try these networking tips.

2. Ask "Why?"

We've all been there before: stuck in a rut, where new ideas seem few and far between. Breaking free of a mental block starts with asking questions. The simplest way to start is by asking "why?" It helps you challenge accepted ways of thinking[2], so you see if there's a better way to do things. Here are a few good "why" questions to get you started:

*Why do we do it this way?*
*Why haven't we tried that?*
*Why couldn't we change this?*

3. Take a Course

Add a TMS course, like Leadership Essentials: Leading Innovation to your Individual Development Plan. Innovation is a skill that you will use in every job you have, so it's worth investing some time to learn more. You can also find and download inspiring reads, like Managing Innovation, Design and Creativity, on Books24x7.

4. Learn from Other Innovators

The VA Center for Innovation was created to encourage new ideas and solutions that help Veterans. Follow @VAInnovation on Twitter to stay up to date on projects and competitions, including opportunities for VA employees to participate in the innovation process.

Learn more about innovation and other I CARE characteristics. Did you find this article helpful? Sign up for the MyCareer@VA Monthly Update so you don't miss the next post.

*Source(s):*

*[1] Wu, Chia-Huei, Sharon K. Parker. 2014. "Need for Cognition as an Antecedent of Individual Innovation Behavior." Journal of Management. 40: 1511-1534*

*[2] Dyer, Jeffrey H., Hal Gregersen, Clayton M. Christensen. 2009. "The Innovator's DNA." Harvard Business Review. Accessed March 2, 2015. https://hbr.org/2009/12/the-innovators-dna*

## Policy Alert
**Leave and Workplace Flexibilities for Childbirth, Adoption, and Foster Care**

In alignment with President Obama's memo Modernizing Federal Leave Policies for Childbirth, Adoption and Foster Care to Recruit and Retain Talent and Improve Productivity, the Office of Personnel Management published a Handbook for Leave and Workplace Flexibilities for Childbirth, Adoption, and Foster Care.

For questions or comments about *Diversity@Work* or to subscribe, contact the Office of Diversity and Inclusion.



U.S. Department of Veterans Affairs | Office of Diversity & Inclusion
810 Vermont Avenue, NW (06) | Washington, DC 20420 | 202-461-4131 | 202-501-2145 (Fax)