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DISCRIMINATION AGAINST JOBLESS AMERICANS ON THE RISE

NELP Urges Scrutiny of Employment Practices Barring the Unemployed from Opportunities

Washington, DC—Employers who refuse to consider the unemployed for job openings have become an increasing and disturbing hurdle for jobless Americans looking for work.

[Speaking today](#) before the U.S. Equal Employment Opportunity Commission (EEOC), Christine Owens, executive director of the National Employment Law Project, said that practices barring the unemployed from job availabilities have been growing around the country—and place a disproportionate burden on older workers, African Americans, and other workers facing high levels of long-term unemployment.

“There is a disturbing and growing trend among employers and staffing firms to refuse to even consider the unemployed for available job openings, regardless of their qualifications,” said Owens. “Excluding unemployed workers from employment opportunities is unfair to workers, bad for the economy, and potentially violates basic civil rights protections because of the disparate impact on older workers, workers of color, women and others. At a time when we should be doing whatever we can to open up job opportunities, it is profoundly disturbing to see deliberate exclusion of the jobless from work opportunities. The National Employment Law Project commends the Equal Employment Opportunity Commission for examining this issue,” she said.

Reports of systematic and often blatant exclusion of unemployed workers from consideration for jobs began to emerge early last summer: A global phone manufacturer posted a job announcement for a marketing position that explicitly said “No Unemployed Candidates Will Be Considered at All”; a Texas electronics company’s online listing said it would “not consider/review anyone NOT currently employed regardless of the reason”; an ad for restaurant managers in New Jersey said applicants “Must be currently employed.”

The ads often specify that only currently employed candidates will be considered, or that no unemployed candidates will be considered, regardless of the reason for unemployment, or that no candidate unemployed for more than a certain period (e.g., six months) will be considered.

Employers or staffing firms questioned about such ads typically pull them or delete the exclusionary language, but that does not signal that they will not apply the exclusion in the selection process. Staffing firms and recruiters are often aware of and honor employers’ preferences for candidates who are currently working, sometimes explicitly acknowledging to unemployed candidates that they are doing so, but more often than not, simply not providing the reason the candidate will not advance through the process.

Michelle, a 53-year-old from Illinois who contacted NELP after working successfully for 19 years as an IT help supervisor, was told by a headhunter that “he would not be able to present me for an interview due to the ‘over 6 month unemployed’ policy that his client adhered to.”

“While there is no official data on how frequently unemployed workers are denied consideration for jobs because of their employment status, the brazenness of the ads and accumulating anecdotes from jobless workers suggest the practice is fairly common,” said Owens.

These barriers to employment come as the jobs crisis persists for millions. Although the official unemployment rate dipped again in January, employers added only 36,000 jobs to their payrolls and there are still roughly five officially unemployed job seekers for every new job opening. There are 2.2 million fewer jobs overall today than ten years ago, despite the fact that the working-age population has grown by almost 10 million; the economy would need to add roughly 11 million jobs just to return to employment levels at the start of the recession. NELP estimates that throughout 2010, 3.9 million unemployed workers exhausted all of their unemployment benefits without finding new work.

Refusal to consider candidates simply because they are unemployed imposes an especially harsh burden on people of color, especially African Americans. In January 2011, when the official unemployment rate overall was 9.0 percent, the unemployment rate for African Americans was 15.7 percent, compared with only 8.0 percent for white workers. That means that the share of African American workers adversely affected by an employer ban on considering the unemployed is almost twice as large as the share of white workers affected by the exclusion.

Similarly, long-term unemployment is far more severe among older Americans than younger workers, which means the impact of excluding unemployed workers from job consideration because they have been out of work for more than a certain amount of time is substantially greater for older workers as well.

Owens urged the EEOC to explore every available legal option to prevent discrimination against the unemployed from spreading, and she urged state fair employment agencies, Congress, state legislatures and employers themselves to raise awareness and explore remedies to these trends.

“The dire job market has made it essential that Congress and the administration maintain the most robust program of unemployment insurance benefits in the nation’s history. But what’s needed most—and what all unemployed workers most want—is jobs. Meeting that need requires sound public policies that help encourage job growth and a willingness on the part of employers to make job openings equally available to all qualified job seekers, without regard to their current employment status. We have to put an end to employer discrimination against the unemployed if we are going to get the economy back on track,” she said.

Click [here](#) to see Christine Owens’ full testimony before the Equal Employment Opportunity Commission.

Further information about the EEOC is available on its web site at www.eeoc.gov.

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