



STATE OF DELAWARE  
**STATE COUNCIL FOR PERSONS WITH DISABILITIES**  
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April 13, 2011

The Honorable John McMahon  
Cabinet Secretary  
Department of Labor  
4425 North Market St.  
Wilmington, DE 19802

Dear Secretary McMahon:

I write on behalf of the State Council for Persons with Disabilities (SCPD) regarding the attached February 24, 2011 article in The News Journal which references the backlog of cases in the Department of Labor's (DOL's) Office of Anti-Discrimination. Consistent with the article, it appears that the DOL may have eliminated positions responsible for investigating charges of employment discrimination. As a result, the article reports that it would take two years for a complaint to be investigated and there may be no effective remedy at this time.

SCPD respectfully requests your perspective on how wait times regarding investigations can be reduced and/or welcomes you to attend a meeting which accommodates your schedule. In addition, SCPD requests updated data consistent with the attached DOL discrimination statistics, the "success rate" pertaining to the number of charges filed on the basis of disability, and similar statistics for other protected classes if readily available.

Thank you for your consideration and please contact SCPD regarding your predispositions on this matter.

Sincerely,

Daniese McMullin-Powell, Chairperson  
State Council for Persons with Disabilities

cc: Mr. Brian Hartman, Esq.  
Developmental Disabilities Council  
Governor's Advisory Council for Exceptional Citizens



## Delaware politics: Sen. Anthony DeLuca criticized for role at Labor Department



Written by

CHAD LIVENGOOD

2:40 AM, Feb. 24, 2011|

DOVER -- The state agency that investigates workplace discrimination is being starved of resources so that Senate President Pro Tem Anthony DeLuca can have a \$62,000-a-year job in the Department of Labor, Sen. Karen Peterson alleged Wednesday.

Peterson told the Joint Finance Committee that the five-person Office of Anti-Discrimination in the Department of Labor has half as many employees as it had before DeLuca became administrator of the labor law enforcement office six years ago.

As a result, Peterson told fellow lawmakers, the discrimination office has a backlog of 478 cases, creating a wait time of two years.

"That's when the investigation would begin -- in two years. That's not justice," said

Peterson, a Stanton Democrat who retired in 2001 as director of the state division that handles workplace discrimination investigations.

Peterson's unannounced testimony before the JFC took Department of Labor officials and DeLuca by surprise.

It's the second major public confrontation that Peterson has had with fellow Democrat DeLuca over his dual employment in the legislative and executive branches of state government.

DeLuca was paid \$61,788 for his Department of Labor job and \$60,205 as president pro tem of the Senate in 2009, according to state records.

In December, Peterson helped organize a coup attempt against DeLuca's Senate leadership. He barely secured the minimum 11 votes needed to remain in power. Peterson had accused DeLuca of running the Senate like "a dictatorship" and having his Senate administrative assistant

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do work for the Department of Labor on Senate time.

Although he was in Legislative Hall on Wednesday, DeLuca said he did not hear Peterson's testimony. But he dismissed her allegations.

"Senator Peterson, as you know, has had a lot to say about what my presence has done in the General Assembly, and she's entitled to her opinion, but most of it isn't based in fact as far as I'm concerned," DeLuca said.

Until DeLuca was hired in September 2005, the labor law enforcement office handled work-force discrimination complaints, Peterson said.

Peterson claims that function had to be split off when DeLuca was hired because the federal Hatch Act prohibits elected officials from administering federal programs. Until DeLuca took over, work-force discrimination and labor law violations were completely supported by federal funds, Peterson said. She said the change has required state tax dollars, resulting in the loss of discrimination investigators and the mounting case backlog.

If the budget-writing JFC wanted to change back to the previous office format to maximize federal funds, DeLuca would likely be out of a job, Peterson suggested.

"There may not be the political will to do that," Peterson said. "I really hate to see it

torn apart, piece by piece."

Peterson said the lack of discrimination investigators is jeopardizing federal funding for Delaware.

DeLuca and his bosses at the Department of Labor disputed that DeLuca is getting special treatment to the detriment of the anti-discrimination unit.

Labor Secretary John McMahon said two open discrimination investigator positions will be filled to address the backlog.

"To the best of my knowledge, we're not in any jeopardy of losing federal funds at this time," McMahon told the JFC.

Peterson, who is not part of the JFC, rose and asked Co-chairman Rep. Dennis P. Williams if she could respond.

"Senator, I'm sorry, we're not going to get into a floor fight here," Williams told Peterson. "You said your part. I wanted ... to hear their side."

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"Except you're being fed bad information," Peterson replied, before the committee moved on.

James Cagle Jr., director of the division of industrial affairs and DeLuca's supervisor, said he split the Office of Anti-Discrimination off from labor law enforcement before DeLuca was hired because of an unrelated court case. Cagle said he has documentation "to prove it" had nothing to do with DeLuca's employment. But he refused a New Journal reporter's request for copies of the records, saying they included personnel files.

Peterson spent 15 years in DeLuca's current position overseeing prevailing wage and worker compensation laws before spending the last eight years of her career at the Department of Labor as industrial affairs division director.

DeLuca, a union electrician by training who was elected to the Senate in 1998, was hired into a full-time job at the Department of Labor under then-Secretary Thomas Sharp, who previously held DeLuca's position as Senate president pro tem.

DeLuca, D-Varlano, said he's been aware of the potential problems associated with being in charge of a state agency while serving in the Legislature.

"When I applied for the job, one of the first questions I had was, 'Does it have anything to do with any federal funding? Because if it does, I'm not applying for it,'" DeLuca said. "It didn't. I applied for the job and I was

lucky enough to get it."

DeLuca also denied Peterson's charges that his office has grown to the detriment of the Office of Anti-Discrimination.

"The discrimination unit is an important unit and it should be funded and it should be adequately funded in order for them to do their job," DeLuca said. "But it has no bearing on my job in the Department of Labor whatsoever."

Committee members could seek more information or choose to ignore the issue, said Rep. Joseph Miro, R-Pike Creek.

"It's probably something that's been brewing for a long time," Miro said.



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Zoom

Sen. Anthony DeLuca works in both the legislative and executive branches of government.



Zoom

Sen. Karen Peterson says the backlog of cases in DeLuca's labor office is "not justice."

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**DELAWARE DEPARTMENT OF LABOR  
DIVISION OF INDUSTRIAL AFFAIRS  
OFFICE OF LABOR LAW ENFORCEMENT**

**GENERAL EMPLOYMENT DISCRIMINATION STATISTICS  
TO DATE 12/13/02**

Number of Charges Filed: 673

Most Common Basis:

Multiple Basis w/out Disability	182
Race	158
Disability & Disability w/other basis	124
Sex	94

Most Common Issue/s:

Discharge	386
Harassment (including sexual harassment)	150
Terms and conditions of employment	136

DISABILITY CHARGES

Number of Charges Filed on Basis of Disability: 124  
(This includes Charges filed solely on basis of disability  
and/or Charges filed on multiple bases, including disability.)

Most Common Disability (es):

#1	Regarded as disabled
#2	Back Impairment
#3	Depression

(other types of impairments identified include: Non-paralytic orthopedic impairment,  
Anxiety Disorder, Diabetes)

Most Common Issue (s) (alone and/or combined) in Disability Charges:

#1	Discharge
#2	Reasonable accommodation
#3	Terms and conditions of employment

(other types of issues alleged include: Harassment, Hiring)

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ET.

State of Delaware  
Delaware Department of Labor  
Office of Labor Law Enforcement

General Statistics Concerning Discrimination

A. General Total Cases Filed

	Average Per Month	Per Year
FFY 1996 -	26	311
FFY 1997 -	27	323
FFY 1998 -	26	317
FFY 1999 -	34	429

B. Cases Specific to Disability (statistics represent activity in DOL office, not EEOC) (percentage out of total for the represented year)

	Disability Based	Disability + other basis
FFY 1996	19%	4.1%
FFY 1997	18.3%	2.2%
FFY 1998	17%	3%
FFY 1999	10%	2%

C. Impairments (Generally)

#1 impairment -	Back
#2 impairment -	Mental

D. Issue (Generally)

#1 Adverse Action =	Discharge
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E. Results (total cases in DOL office)

	Resolved in Favor C/P	No Cause	Other
FFY 1996	19%	59%	22%
FFY 1997	27%	62%	11%
FFY 1998	24%	65%	11%
FFY 1999	41%	44%	15%