



Lincoln  
Human  
Resource  
Management  
Association



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Volume 8, Issue 3

March, 2017

**Lunch Program: Workplace Law Under Trump: What to Expect**

**WHEN:**

**Tuesday, March 14, 2017**

11:00 – 11:30 Registration  
11:30 – 1:00 pm Keynote Session

**WHERE:**

Lincoln Marriott Cornhusker Hotel  
333 S 13th, Lincoln, NE 68508

**COST:**

**Program Registration Fee:** LHRMA members—\$15  
All Other Attendees—\$25

College Student Chapter Members—FREE (You must register with Jenessa Keiser,  
College Relations Chair)

**DEADLINE:** Register/cancel your registration by **12:00 noon, Friday, Mar. 10<sup>th</sup>**.

**REMINDER:** There is a \$10 fee for late registrations and for no-shows. This \$10 fee is in addition to the regular registration fee. Please try your hardest to register on time, as late registrations and no-shows make it difficult on everyone involved.

This program has been pre-approved for 1.0 PDC from SHRM and 1.0 General Recertification Hour from HRCI.

**About the Program - Workplace Law Under Trump: What to Expect**

On January 20, 2017, the U.S. swore in a new President, and both houses of Congress are now led by Republican majorities. President Donald Trump has stated an intention to reverse or eliminate many of the Obama Administration's employee-friendly enforcement positions and rules. This presentation provides a broad overview of the anticipated impact of Trump's presidency on a multitude of labor and employment laws, regulations, agency guidance and enforcement provisions and case law. This presentation will discuss the effect of the Trump presidency on:

- Government Agencies  
⇒ EEOC, NLRB, OFCCP, DOL
- Affordable Care Act
- Immigration
- Court Cases
- Legislation – current and proposed

**Presenters:** Sarah J. Millsap, Principal, Omaha, NE office of Jackson, Lewis P.C. and Jessica Kallstrom-Schreckengost, Associate, Omaha, NE office of Jackson, Lewis P.C.

## NEW MEMBERS

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**Welcome! You've joined an outstanding organization!**

## Jobs, Jobs and More Jobs!

If you are an employer with an employee that is a current LHRMA member, then you can post your HR-related job opening on our website for **FREE!** Just email Kathy Harper at [lhrma0048@yahoo.com](mailto:lhrma0048@yahoo.com).

If you are looking for a human resource position, then check it out!  
Go to <http://lincolnhhr.org/blog/hr-job-openings/>

This is also an excellent resource for students who are seeking an HR position or for companies to advertise if they have summer internships available. Take advantage of this great resource—you can't beat the price!



### **Drawing Winner**

Who Says There's No Such Thing  
as a Free Lunch?

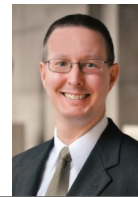
Congratulations to

**Maggie McPherson** with  
Lincoln Surgical Hospital.

Maggie will receive free registration  
for the March program.

## President's Message

Joel Scherling, LHRMA President



Are you up on the latest technological advances? Have you heard about Microsoft's HoloLens? It allows you to access multiple screens, virtually scroll down a web page, and control apps and holograms by using your eyes, moving your head to move the cursor, or using voice commands to select, navigate and control your apps. This technology will likely render your current phones, computers and televisions obsolete.

What's happening with technology in the world of HR? IBM is working on "[cognitive technology](#)" specifically for HR applications, in areas such as recruitment, career coaching, talent development, workforce analytics and employee support. This new technology could help you do things such as:

- Identify and contact potential recruits who possess the background you want before they're even thinking of a new job;
- Offer automated, interactive services to your employees in areas such as career development, competency development, and customized learning activities; and
- Retooling HR services and operations to improve customer service and enhance opportunities for collaboration.

HR technology investments are projected to increase more than 15% over 2015, according to an article on [HR Tech Trends for 2017](#) by Josh Bersin in February's SHRM Magazine. Bersin cites nine technology trends that will affect the work of HR in the following areas:

1. Performance management,
2. Real-time engagement analysis,
3. Increases in people analytics,
4. Maturation of the learning management systems,
5. Evolution in talent acquisition,
6. Advances in contingent workforce management,
7. More options for team management tools,
8. Continued growth in wellness apps, and
9. Accelerated advancement of automated HR services.



I encourage you to take a look at the two linked articles to learn more. Evaluate your current use of technology. What are the logical next steps for your company? Keep HR tech in mind the next time you conduct strategic planning for your office.

## Legal Update

### EEOC's Proposed Guidance Urges Proactive Approach to Workplace Harassment

Jack L. Shultz and Kramer L. Lyons

O'NEILL, HEINRICH, DAMKROGER, BERGMAYER & SHULTZ, P.C., L.L.O.

On January 10, 2017, the Equal Employment Opportunity Commission (the "EEOC") issued the Proposed Enforcement Guidance on Unlawful Harassment and will accept public comments on the proposed guidance until March 21, 2017. The proposed enforcement guidance highlights a proactive approach to preventing workplace harassment and strategies for identifying and addressing harassment if and when it occurs. The proposed enforcement guidance will replace the current sexual harassment section of the EEOC Compliance Manual (1990) and various guidance documents.

The proposed enforcement guidance provides that workplace harassment will only be covered by Equal Employment Opportunity laws if it is based on an employee's legally protected personal characteristics. These characteristics include race and color, national origin, religion, age, disability, genetic information, and sex. The new guidance expands upon the nature of sex-based harassment to include sex stereotyping, pregnancy and childbirth, gender identity, such as using a name or pronoun inconsistent with the individual's gender identity in a persistent or offensive manner, and sexual orientation. The cause of harassment must be *because of* the protected characteristic, but need not be the only basis.

In addition to personal characteristics that may involve a harassment claim, the proposed guidance describes the requirements for bringing a hostile work environment claim. To create a hostile work environment, the harassment must be:

- Sufficiently severe or pervasive to affect a term condition or privilege of employment; and
- Subjectively and objectively hostile

There is no set threshold for number of harassing incidents or minimum severity required to automatically establish a hostile work environment. Considerations in determining severity include whether the conduct would make it difficult for a reasonable person in the individual's position to do their job, the employment position of the harasser, a decline in work performance, or psychological injury. Examples of conduct the EEOC typically finds severe include sexual assault, physical violence or threat of physical violence, the use of the "n-word," and use of symbols of violence or hatred towards individuals of a protected class, such as swastikas. If the incidents are less severe, but occur more frequently they may create a hostile work environment.

A hostile work environment claim may arise from:

- Conduct that is not directed at the employee;
- Conduct occurring in a work-related context outside the employee's regular workplace; and
- Conduct occurring in a non-work-related context, that impacts the workplace, such as harassment by a coworker on social media

When determining employer liability, the EEOC and courts have developed a sliding scale and apply one of four standards which are dependent upon the position of the harasser. If the Harasser is:

- The employer's proxy or alter ego, including partners, corporate officers, and high-level supervisors, the employer will be strictly liable for the harasser's actions with no defense to liability;
- A supervisor and the hostile work environment includes a tangible employment action against the victim, the employer is vicariously liable for the harasser's conduct and has no defense to liability;
- A supervisor and the hostile work environment has *not* resulted in a tangible employment action, the employer is vicariously liable for the harasser's conduct, but may limit liability through a two-part affirmative defense by proving (1) the employer acted reasonably to prevent and promptly cor-

(Continued on page 5)

rect harassment, and (2) the complaining employee unreasonably failed to use the employer's complaint procedure or take other steps to avoid or minimize harm from the harassment; or

- A non-supervisory employee, coworker, or non-employee, the employer is liable for the harasser's conduct only if the employer failed to act reasonably to prevent the harassment or to take corrective action in response to the harassment when it was aware or should have been aware of it

The proposed enforcement guidance emphasizes the advantages of adopting proactive measures to prevent harassment from occurring. These so called "promising practices" comprise of "five core principles" that while not a defense or safe harbor to harassment claim, are preventative measures designed to stop harassment from occurring. These core principles are:

- Committed and engaged leadership;
- Consistent and demonstrated accountability;
- Strong and comprehensive harassment policies;
- Trusted and accessible complaint procedures; and
- Regular, interactive training tailored to the audience and organization.

It is important to note, that if and when, the proposed guidance becomes effective it will not have the force of statutory or regulatory authority. However, employers are now on notice to how the EEOC is likely to review, investigate and prosecute harassment complaints.

The full text of the proposed guidance provides detailed suggestions and examples for establishing effective prevention techniques and can be accessed at [www.regulations.gov/docket?D=EEOC-2016-0009](http://www.regulations.gov/docket?D=EEOC-2016-0009). Public comments will be accepted until midnight on March 21, 2017 and may be submitted online at the link above. Written feedback should be sent to: Public Input, EEOC, Executive Officer, 131 M Street, N.E., Washington D.C. 20507. All comments will be posted publically on [www.regulations.gov](http://www.regulations.gov); so, do not include personal information that you do not want made public.

**Editor's Note:** This article is not intended to provide legal advice to our readers. Rather, this article is intended to alert our readers to new and developing issues and to provide some common sense answers to complex legal questions. Readers are urged to consult their own legal counsel or the authors of this article if the reader wishes to obtain a specific legal opinion regarding how these legal standards may apply to their particular circumstances. The authors of this article, Jack L. Shultz and Kramer L. Lyons can be contacted at (402) 434-3000, or at O'Neill, Heinrich, Damkroger, Bergmeyer & Shultz, P.C., L.L.O., P.O. Box 82028, Lincoln, NE 68501-2028, [jshultz@ohdbslaw.com](mailto:jshultz@ohdbslaw.com) and [klyons@ohdbslaw.com](mailto:klyons@ohdbslaw.com).

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## COMMUNITY OUTREACH

### Balancing the Wellness Wheel with Community Resources

We have made it to March and some realize that their New Year's resolution(s) may have dwindled, while others may say they are on their way to achieving their goals. Between the madness of work, life, kids, volunteering and all the activities that consume us, where has your health and overall wellness left you?

Wellness can mean many things to many of us. There is a wellness wheel that is often referred to as we look at our overall individual wellness. Work/Life Balance continues to be a hot topic in the work place and the question is, how do we incorporate these things into our workday? Do we have a goal set for each area of our individual wellness?



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The Lincoln community offers many resources to assist in all areas of balancing your wellness wheel from a personal perspective, but also can be used in the workplace.

**Incorporating the Wellness Wheel into your Life/Workplace:**

**Social:** *ability to relate to and connect with other people. It is also about maintaining positive relationships with family, friends and co-workers.*

- Get social through social media group like Facebook, Twitter and LinkedIn, as well as various groups and organizations within the community.
- Create a healthy office cookbook, share your favorite recipes and connect through offering a pot luck incorporating these recipes.

**Environmental:** *ability to make a positive impact on the quality of our environment, be it our homes, our communities or our planet.*

- Does your workplace promote “going green”? Check out more information at <https://lincoln.ne.gov/city/pworks/solid-waste/pdf/guide.pdf>
- Offerings of food and clothing drives benefit many of the organizations within the Lincoln community. It provides an opportunity for team building as well as giving back.

**Financial:** *ability to improve financial well-being through knowledge and understanding of spending, emergency situations trustworthy sources and investment opportunities.*

- Partner with a local bank, credit union or credit counseling service to provide lunch and learn topics, support and resources to assist with being financially well.

**Spiritual:** *ability to establish peace and harmony in our lives.*

- Offer a time and day during the week for example “no talk Tuesday” where non-urgent meetings or interruptions can take place to get more work done early in the week to create that work/life balance.
- Create an on-site Yoga class. Invite a local Yoga instructor into your workplace to guide the team through a yoga class.

**Emotional:** *ability to understand ourselves and cope with the challenges life can bring. This piece of wellness allows us to acknowledge and share feelings of anger, fear, sadness or stress; hope, love, joy and happiness in a productive manner contributes to our Emotional Wellness.*

- 21 Days of Gratefulness Challenge – track three things you’re grateful for (individual, or work related) every day for 21 days.
- Connect in the community by volunteering. <http://www.volunteerpartners.org>

**Intellectual:** *ability to open our minds to new ideas and experiences that can be applied to personal decisions, group interaction and community betterment. The desire to learn new concepts, improve skills and seek challenges in pursuit of lifelong learning.*

- Bring in a local Chef from the community to share easy cooking recipes with the team and create a networking and team building opportunity.
- Offer a book club or station where books can be checked out.
- Host lunch and learns with local organizations or contacts to present on topics relevant to your workplace or how to get involved in the community (i.e. Lincoln Young Professionals Group, etc.).

**Physical:** *ability to maintain a healthy quality of life that allows us to get through our daily activities without undue fatigue or physical stress. This includes adopting healthful habits such as routine checkups, a balanced diet, exercise, etc.*

- Turn meetings into walking meetings
- Train your fitness guru’s into Workplace Wellness Masters From the yoga guru to the Zumba enthusiast, every organization has a group of employees passionate about fitness. You can harness that passion and create a healthier workforce by allowing those employees to be certified and train your employees.
- Ultimate Stair or Water Drinking Challenge
- Partner with a local gym to create challenges for your team. This activity creates a strong team building opportunity while also providing many individual success stories as it relates to nutrition, exercise and minimizing smoking, drinking, etc.

## Wellness News

### New Guidelines for the Treatment of Lower Back Pain-FINALLY!

Dr. Randy McCracken

McCracken Chiropractic Clinic

Lower back pain results in lost wages, productivity and has contributed to the drug epidemic in the US. Now a pill or prescription should be the last resort according to the latest guidelines released on 2/14/17 by the American College of Physicians. They are also recommending spinal manipulation for acute lower back pain. I wonder what took so long? The US department of Health & Human Services has recommended spinal manipulation since 1994 and chiropractors have been successfully treating lower back pain since 1985.

According to the CDC/NCHS/HUNIS (2013) in the last 3 months 29% of adults reported lower back pain with .30% women and .26% men.

It has been my experience during the 40 years I have been a doctor of chiropractic that chiropractic manipulations when combined with specific lower back exercises, use of natural anti-inflammatories such as bromelain, a daily regimen of vitamin C as originally utilized by Baylor's College of Medicine in the 60's and use of Low-Level-Laser have proven to be very successful in the treatment of lower back pain, sciatica, and disc herniation's. This treatment has avoided the use of opioids, surgery and hospitalizations.

Should you have any questions regarding the treatment for lower back pain, give Dr. McCracken a call. Improved health, decreased health costs and increased productivity has been documented in the literature. For more information you may reach Dr. McCracken @drmcchiro@gmail.com



Remember

*Spring  
Forward*

Sunday Morning | March 12



## EAP Corner

### Stress Reduction in the Workplace: Mindfulness Making its Way into Wellness Programs

Valerie Williams, LMHP

Continuum EAP

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Though the concept of Mindfulness Based Stress Reduction originated in the 1970s with practitioner Jon Kabat-Zinn, mindfulness in the workplace has become a buzz word only in the past few years. There is myriad research to support integrating mindfulness into company wellness programs to improve productivity and reduce collective stress.

More and more, workplaces are impacted by the rapid growth of technology, turnover, multi-generational work styles, and spill over stress from personal concerns. Since 2007, the American Psychological Association has published its annual "Stress in America" survey; 83% of respondents in 2016 identified work as their top source of stress. Data from a 2014 Towers Watson study indicate stress is the number one issue employees want the most help with. Though it's important to acknowledge a certain amount of stress is inevitable at work, companies are recognizing techniques like mindfulness can prevent stress from occurring in the first place.

So what is mindfulness and how can it be beneficial in the workplace? The simple definition of mindfulness is moment to moment awareness. Author Drew Hanson describes mindfulness this way: "When you are mindful... You become keenly aware of yourself and your surroundings, but you simply observe these things as they are. You are aware of your own thoughts and feelings, but you do not react to them in the way that you would if you were on "autopilot"...By not labeling or judging the events and circumstances taking place around you, you are freed from your normal tendency to react to them."

Practicing mindfulness at work just ten minutes a day has been shown to improve focused attention, increased self-regulation of distressing emotions, situational awareness, better listening and decision making ability. This is a win for companies because employees are empowered to understand the importance of self-responsibility for their health, and are taking proactive steps to manage work stress rather than defaulting to reactive patterns that cause disruption, accidents, presenteeism, and less productivity.

According to 2016 research conducted by the Kaiser Family Foundation, 81% of large companies are offering general wellness programs, and 66% of employees acknowledge the programs increase company engagement. Traditional wellness programs have focused on physical wellness and overlooked mental wellbeing and stress reduction. Historically, EAPs have dealt with employees who are unwell or access services when coping with problems begins to interfere with their daily responsibilities. There is a shifting trend for companies and EAPs to collaborate in providing employees with proactive strategies for stress management through various platforms such as training, online webinars, and health fairs.

To learn more about mindfulness in the workplace, visit <http://www.forbes.com/sites/drewhansen/2012/10/31/a-guide-to-mindfulness-at-work/#61f026586870>





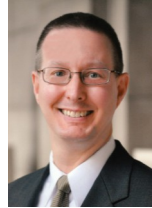
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