

About our Program & Workshop:

LUNCHEON: *They did what??—A Workplace Law update.*

Attorney Mark Fahleson will provide us with an update of recent legislative and case law developments affecting the workplace as well as what policy hazards lie ahead for employers and human resource professionals.

WORKSHOP: *HR Harassment Toolkit*

Attorney Mark Fahleson will provide attendees with the latest information on preventing and promptly remedying claims of unlawful harassment. Workshop participants will work through hypothetical fact patterns and decide proper avenues for addressing the issues raised in each. In addition, participants will receive an HR Harassment Toolkit containing suggested policies, checklists and other useful materials to help them become even better HR professionals.

About our Speaker:

MARK A. FAHLESON is a partner with Rembolt Ludtke LLP, where his practice centers on management-side employment and labor law. Prior to joining the Lincoln, Nebraska based firm, Mr. Fahleson served as Chief of Staff and Legislative Director to a member of the U.S. House of Representatives. He has served as an adjunct professor at the University of Nebraska College of Law teaching employment law, is a frequent author and lecturer on workplace law topics, and has testified before Congress on proposed employment legislation.

July 2010 Program Topics

Luncheon: *They did what??—A Workplace Law update.*
MARK A. FAHLESON, partner Rembolt Ludtke LLP

Workshop: *HR Harassment Toolkit*

When: Tuesday, July 13th, 2010

Where: Country Inn & Suites
 5353 N. 27th

Registration: 11:00 a.m. – 11:30 a.m.

Meal & Program: 11:30 a.m. – 1:00 p.m.

Workshop: 1:15 p.m. - 3:15 p.m.

Cost: \$15.00 Luncheon Meeting* (Non-members \$25)
 \$35.00 Workshop*

Meal: Sandwich Masterpiece Buffet
 Veggie & Fruit Tray, Assorted Salads
 Double Chocolate Cake
 Coffee, Tea, Soda

*HRCI Credits Applied For



The Salvation Army and The Lincoln Human Resources Management Association Help Kids Go Back To School

The Salvation Army and The Lincoln Human Resources Management Association are collecting new backpacks and school supplies to help students in Lincoln get ready to go back to school this August. Please bring your items to the August LHRMA meeting. The following items are recommended:

- Backpacks
- Erasers
- Loose Paper
- Scissors
- No. 2 pencils
- Ballpoint Pens
- Rulers
- Calculators
- Colored Pencils
- Highlighters
- 3-Ring Binders
- Index Cards
- Pencil Sharpener
- Notebooks
- Folders
- Zipper Notebooks

President's Message

Mark Pankoke, President



An Engaged Workforce – What is the truth?

Having just attended the latest LHRMA Workshop and heard Mark Hirschfeld talk about Engagement I thought this might be a good time to address the topic. Employee engagement is an area of real interest to me and many in the HR community. I am finding that it seems the more I hear and read about the topic the more imprecise it seems. Originally most of what I was hearing indicated that more engaged employees very simply made the organization much more likely to succeed and could be achieved by following a relatively simple plan. Find this key to engaging employees and we would be well on our way to lower turnover, an effective and efficient organization and less employee relations issues.

Upon closer examination it seems the problem is finding the real keys to having engaged employees. It seems that based upon reading and workshops I have attended during the last two months, there are so many factors affecting this “engagement”, including, ages of employees, generational diversity, job satisfaction, size of the organization, senior leadership effects, Peer coaching, middle management cultural impacts, etc., that it is likely to be a little like finding the Holy Grail, or the Lost Cities of Gold, very possibly rewarding but highly unlikely. This does not mean we should stop trying; it only should serve as a caution for all of us. Implementing one or two quick programs is not likely to create a totally engaged workforce.

It appears the journey towards a truly engaged workforce is a long one that requires discipline, accountability and a firm long term goal for the organization and its leadership in this quest for engagement.

Your firm's journey toward an engaged workforce will be different from mine. Hopefully, we can all find the magic formula for our own organization. Enjoy the journey!

-Mark Pankoke



WELCOME NEW MEMBERS!



*Pictured:
John Herdman,
Danielle Zemlicka and
Patrick Barger*

DRAWING WINNERS

Who Says There's No Such Thing as a Free Lunch? Congratulations to Barb McIntyre from Ameritas. Elizabeth Coker of Crete Carrier won the Facebook / linked-in drawing They will receive free lunch registration at the July 2010 meeting!

Board Meeting Recap:

- Nametags – new orders will be placed twice per year
- Submit nominations for EE and ER of the year
- Member Directory is on-line, for members only, password protected

MEMBER CHANGES

Check and verify your name and address on this month's LHRResource for accuracy. Please contact Kathy Harper our LHRMA Administrative Assistant, for any of your personal job and address changes. Please either email your changes to Kathy at lhrma0048@yahoo.com or by telephone at 402.483-4581 x 339.

JOBS, JOBS & MORE JOBS!

Do you have one to advertise or are you looking for one?

CHECK OUT OUR WEBSITE:

www.lincolnhr.org

If you are an employer who has a LHRMA member employee, then you can post your Human Resource job opening on our website by contacting

Kathy Harper at lhrma0048@yahoo.com or at 402.483.4581 x 339.

If you are looking for a Human Resource job, then you can check out our website at:

www.lincolnhr.org

LEGAL UPDATE

Can Employers Be Liable for their Employee's Tweets or Blogs?

by Mark A. Fahleson, Esq. • Rembolt Ludtke, LLP • Lincoln, NE

On January 26, 2010, Ann Taylor's LOFT division ("LOFT") offered an "exclusive blogger preview" to bloggers attending the clothing retailer's preview party featuring the company's summer 2010 product line. In its invitation, LOFT promised bloggers a "special gift" if they attended the event, and promised them further compensation if they covered the event on their blogs within 24 hours of the party. The invitation drew numerous bloggers to the event, including many whom enthusiastically blogged about the preview party and the products featured. Some of the bloggers disclosed that they had received gifts from LOFT in exchange for their promotion of the event. But, others did not. The silence of the bloggers was enough to cause the Federal Trade Commission ("FTC") to launch an investigation. The target of the FTC's investigation was not the bloggers, however. The target was LOFT.

The FTC's investigation of LOFT in 2010 marked the agency's first investigation under the recently issued "*Guides Concerning the Use of Endorsements and Testimonials in Advertising*" (the "Guidelines"). 16 C.F.R. Part 255. The Guidelines discuss the application of Section 5 of the FTC Act, which forbids unfair or deceptive acts or practices and unfair competition in or affecting commerce, to the use of endorsements and testimonials in advertising. "Endorsements" or "testimonials" subject to the Guidelines are defined as messages "that consumers are likely to believe reflect[] the opinions, beliefs, findings, or experiences of a party other than the sponsoring advertiser, even if the views expressed by that party are identical to those of the sponsoring advertiser." 16 C.F.R. Part 255.0(b).

Generally, an employer may face liability for the comments of its employees

under two circumstances. First, any endorser of a product or service, who has a material connection with the seller of the advertised product or service such that the connection may affect the weight or credibility of his or her endorsement, must fully disclose the connection between the endorser and the seller. The FTC has stated that such a material connection exists between an employee and an employer. Therefore, an employee commenting on the products or services of his or her employer must disclose the employment relationship between the employee and the employer. This duty to disclose even applies if the employee is not saying anything misleading about the employer's products or services. Otherwise, if the employee fails to disclose his or her employment relationship, the employer may face an enforcement action by the FTC.

Second, even if an employee discloses his or her employment relationship when endorsing a product or service of that employer online, the employer may still be held liable for false or unsubstantiated statements of the employee. Indeed, an employer may be held liable for comments that an employee makes about the employer's products or services on other websites such as Facebook, Twitter, MySpace, online bulletin boards, or chat rooms. See 16 C.F.R. Part 255.5 (entitled "Disclosure of material connections"). Moreover, even though the LOFT scenario involved LOFT actually promising bloggers a gift for covering a particular event, an employer may be liable for the mere comments of its employees, even if the employer never authorized or asked the employee to say anything.

The Guidelines describe two factors diminishing the chances of the FTC bringing an enforcement action against an employer. First, the FTC states that

if an employer articulates appropriate procedures regarding online endorsements by employees, the FTC would consider such a policy in deciding whether to pursue an enforcement action against the employer. In fact, in February of 2010, LOFT adopted a written policy maintaining that LOFT will not issue a gift to any blogger without first telling the blogger that he or she must disclose the gift on his or her blog. The decision letter also expressed the FTC's expectation that LOFT will honor its new policy concerning gifts to bloggers and that the company will take reasonable steps to ensure compliance. The LOFT example demonstrates that it is important for an employer's online endorsement policy to be clear and illustrate the employer's desire to comply with the Guidelines. Second, employers may be worried that despite creating an online endorsement policy, an employee may still post comments about the employer's products or services without the employer's knowledge or permission. Nevertheless, the Guidelines note that the FTC is not aware of a single instance of the FTC bringing an enforcement action against a company for the actions of a single "rogue" employee who violated an established company policy that sufficiently covered the conduct in question.

Lesson: The FTC's new Guidelines pose an increased risk for employers who may now be liable for the comments their employees make online. The Guidelines do not specify the procedures that employers should adopt in formulating an online endorsement policy. However, to minimize potential liability, an employer should contemplate four considerations in designing an online endorsement policy. First, employers should develop an online endorsement policy informing employees of the procedures that employees should follow when commenting

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online about the products or services of the employer. Depending on the needs of the employer, the policy should either prohibit such comments altogether, or notify employees that they must always disclose their relationship with their employer when making comments about the employer's products or services. Second, if employees may make comments online about the products or services of their employer, it may be beneficial to require an employee to obtain prior authorization before endorsing a product or service of the employer online. In this regard, employees should clarify that their views do not necessarily represent the views of their employer. Third, employers should prohibit employees from making misleading or false statements. Fourth, to demonstrate the employer's commitment to enforcing its policy, the policy should also list the consequences for an employee failing to follow the policy. Regardless, employers desiring to create an online employee endorsement policy are encouraged to work with experienced employment law counsel before doing so.

Fahleson is a partner with the law firm of Rembolt Ludtke LLP and may be reached at (402) 475-5100 or mfahleson@remboltludtke.com. This article is provided for general information purposes only and should not be construed as legal advice. Those requiring legal advice are encouraged to consult with their attorney.



WELLNESS REPORT

Worksite Wellness Leadership Support

by Lisa Henning, Executive Director • WorkWell, Inc. • Lincoln, NE

Building a Wellness Team...

In the last article about employee health and wellness, we emphasized the importance of leadership support for your wellness program. Most companies that have implemented a wellness program for several years are probably nodding their heads in agreement that strong leadership support is critical to the success of any good wellness program.

The next step in starting a wellness program is forming a committee to assist with carrying out the duties of the program. "Committee" is often thought of as a bad word, but actually, if done correctly, it can be one of the best ways to have a successful program. Many companies already have an established safety committee. Realistically, wellness and safety are marching down the aisle together. Many safety related issues, such as back injuries, and gross motor function/soft tissue injuries could be prevented with a good wellness program. Some companies are connecting their wellness and safety committee into one overall group.

Theories vary about whether or not the committee members should be appointed rather than voluntary. Personally, I prefer to have someone on my team that wants to be involved. I look for the passion first and then if not successful, ask for help through an appointee.

Representatives from the following areas should be taken in to consideration when forming a wellness and/or safety and wellness committee are:

- Senior leadership
- Human resources

- Finance
- Information technology
- All shifts
- Professional level and non-professional level
- Marketing
- Safety
- Risk management
- Unions
- Occupational health

Most committees meet once a month, sometimes more often as workload dictates. Remember to keep your committee manageable, 8-10 individuals are usually ideal. Companies with less than 100 employees should scale their committee size to the size of the organization.

A few words of advice:

Create brief job description for each committee member. Duties could include attending a minimum number of meetings each year and the responsibility of coordinating one event a year.

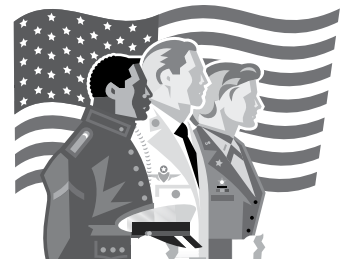
Create alternating term limits for members.

Keep minutes of all meetings

Provide brief summaries to management and co-workers on a periodic basis.

Feed your team members and provide recognition to your team on a frequent basis.

Our next article will focus on using data collection to drive your wellness efforts. For more information on employee wellness, contact WorkWell, Inc., 441-8049.



Certification Update

Are you interested in receiving your HR certification or are already certified? If so, you should be aware of several changes that the Human Resource Certification Institute (HRCI) have made or are upcoming to the certification program.

The exam eligibility requirements are changing in 2011. Currently, the only requirements are 2 years of professional HR experience for all certifications. Starting with the May-June 2011 testing window the following eligibility requirements will be enforced:

PHR Eligibility

- 1 year of professional (exempt –level) HR experience with a Master’s degree or higher
- 2 years of professional (exempt –level) HR experience with a Bachelor’s degree
- 4 years of professional (exempt –level) HR experience with less than a Bachelor’s degree

SPHR Eligibility

- 4 years of professional (exempt –level) HR experience with a Master’s degree or higher
- 5 years of professional (exempt –level) HR experience with a Bachelor’s degree
- 7 years of professional (exempt –level) HR experience with less than a Bachelor’s degree

GPHR Eligibility

- 2 years of global professional (exempt –level) HR experience with a Master’s degree or higher
- 3 years of professional (exempt –level) HR experience (with 2 years being global) with a Bachelor’s degree
- 4 years of professional (exempt –level) HR experience (with 2 years being global) with less than a Bachelor’s degree

If you are considering taking one of the certification exams and do not yet meet the 2011 eligibility requirements you may want to consider sitting for the exam in the December 2010-January 2011 testing window. For more information on the eligibility requirements visit www.hrci.org.

The Human Resource Certification Institute has also renamed one of the categories from the body of knowledge for the certification exam. The “Strategic Management” category has been changed to “Strategic Business Management”. This is only a name change and no specific items within this category of the body of knowledge have changed. The institute states that the reason for this change is to help HR professionals understand that it becoming more and more important that some of our HR responsibilities are no longer in the traditional HR functions and have become more business-related. This category is becoming increasingly important as HR professionals are asked by their senior management to quantify results, justify decisions, and become strategically involved in their organization’s long-term plans and goals.

The SPHR certification requires 15 recertification credit hours out of the 60 total to be strategic business management activities. HRCI recommends when logging recertification credits to give a detailed activity description because title alone does not give enough information, realize that the word “strategic” in title does not mean it automatically qualifies for those strategic business management recertification credits, and to recertify early in case a submitted activity gets rejected.

If you are considering taking the exam in the December-January testing window, consider participating in LHRMA’s Certification Study Group for both PHR and SPHR certifications. Our fall study group will start August 23rd and will meet every Monday evening from 5:30-8:30pm for 13 weeks. This is a great way to keep you on track for studying, network with other individuals studying for the exams, and receive great information from our instructors. For more information or to register for the study group visit www.lincolnhhr.org and click on “PHR/SPHR Certification”.

Any questions can be directed to Melissa Price, LHRMA’s Certification Director, at mprice@nebook.com or 402.421.0402.



Certification Study Group

YOU CAN DO IT!

Plan now for the Spring PHR/SPHR/GPHR Study Group – August 23rd thru November 15th. Certification testing eligibility requirements change for the May/June 2011 testing window so this is the perfect time to start studying! Visit the LHRMA website at www.lincolnhhr.org for more information and to fill out the registration form. If you have any questions please contact Melissa Price at mprice@nebook.com or 402.421.0402.



Free-AP or EAP?

By Kevin J. Mattran • Continuum EAP • Lincoln, NE

My dad always told me, “be sure to read the fine print.” Now that I am in the multi-focal lens wearing demographic, reading that fine print isn’t as easy as it used to be. Personally, I would much rather do business with someone who lets me know precisely what I am getting for the money I’m about to spend. No fine print, no fast talking disclaimers tacked onto the last two and a half seconds of a radio or TV ad, and no surprises when the first bill arrives.

Most EAPs will charge fees for out of contract services; how it’s done is what separates the *crème from the ploys*. If you would like to know if your EAP is a “Fee-AP”, ask yourself the following questions.

Did your EAP submit a proposal based on your organizations particular needs? A well written proposal for services begins with a dialogue. Not all organizations are the same, and a quality EAP does not treat them the same. Before any proposal is written, it is crucial to have an understanding of the needs and expectations of the client. One size fits all EAPs are not a bargain.

Are the services that are important to your company even available from your EAP? What are you looking for in an EAP? Some offer only basic short term counseling and problem-solving services while others are work-site based EAPs that work in partnership with you to help manage behavioral risks and productivity. Do you have need for things like training, online resources,

wellness coaching, human resource and management consulting? The best EAPs have kept pace with the changing demands of their member companies.

Is what you get for your contract rate spelled out specifically? The services provided within your contract should be spelled out specifically. The amount of usage available in each service area should be sufficient to serve your employee population and these usage levels should be reviewed on a regular basis.

Is EAP usage what you expected? If your employees aren’t using EAP services as much as you expected, find out why. If it is a matter of visibility, you can work together with your EAP representative and find ways to let people know about the services available to them. If your employees are not happy with the services, address those issues with your EAP representative.

When you have questions about your EAP contract, how easy is it to speak to a person? When you have issues, you should be able to speak directly to the person who manages your account. EAP, by its very nature, is a high contact business. Even if you must leave a message for your EAP representative, you should expect a return call within a short amount of time.

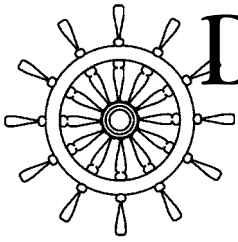
When your EAP charges fees for out of contract services, are the fees explained in detail before the service is provided? It isn’t unusual for an EAP to charge fees for out of contract services. Some services outside of the core EAP services require the purchase of materials, require special training or certification or a higher than usual investment of time. Any out of contract fees should be discussed prior to the delivery of the service.

Locally-based EAPs are competing on a much larger scale than ever before. Many national EAPs can offer low per employee rates, but it is important to look closely at the value you receive. Local EAPs have first hand knowledge of the issues facing the businesses in your area, and often are much more adaptable to the changing needs of their clients. Locals can also provide a level of responsiveness and personal contact that is crucial to many organizations.

Kevin Mattran is the Organizational Training and Education Specialist for Continuum EAP. For more information on EAP and work/life issues, call us at: (402) 476-0186 or email at especialist@4continuum.com

“A perfect summer day is when the sun is shining, the breeze is blowing, the birds are singing, and the lawn mower is broken!”

-James Dent



DIVERSITY HUB

What is Diversity? It's More than Race or Gender.

By Margaret J. Styles • Black Emphasis Program Manager

“Diversity” as used here refers to human attributes that are different from your own and from those of groups to which you belong.

When you look at the people in the following image, what diversity do you see?

You probably said you noticed an African American, an Asian American, a Native American, an older woman, a younger man with a physical disability, etc. What you observed is called “visible” diversity. Visible diversity is generally those things we cannot change and are external, such as age, race, ethnicity, gender, and physical attributes.

However, diversity goes beyond this to what we call “invisible” diversity. Invisible diversity includes those attributes that are not readily seen, such as work experience, marital status, educational background, parental status, income, religious beliefs and affiliations, geographic location or socioeconomic status.

It is the combination of diversity attributes, both visible and invisible, that define an individual’s “personal” diversity. No one individual’s personal diversity is exactly like another’s. So, when we recognize, value, and embrace diversity, we are recognizing, valuing, and embracing the uniqueness of each individual.

While each individual is unique, he or she generally has many attributes that are similar to those of others. In life, we will find people whom we believe are “just like ourselves” are more different than we think, and people we perceive as “different” have a surprising amount in common with

ourselves.

Take time to reflect on one person you consider being “just like you” and seeing if you can identify ways in which the person is different from you. Also, reflect on one person you can consider being “different” and seeing if you can identify ways in which the person is like you.

The bottom line is that when we fully recognize diversity as contributions of many, then we as a people will be more united in our common goals. Others attributes to view diversity are as follows:

- Diversity represents all the ways we are different.
- Diversity acknowledges and uses inherent differences.
- Diversity cannot divide one at the expense of another.

*-From on-line resource Duren & Assoc Inc
- 2002 Univ of Michigan Health Sys*



Change for the Foundation

Every month you will find a small jar with some spare change rattling around in the bottom. As the SHRM Foundation Representative, I hope to use this small effort to increase our annual SHRM Foundation gift. I hope that when you see it, you will be excited to make a small, yet significant donation to help advance the HR profession through the research, scholarships, publications and advancement opportunities that The SHRM Foundation provides. For more information on the SHRM Foundation, visit www.shrm.org and click on SHRM FOUNDATION. Thank you!

Membership Updates The Dynamic Duo – SHRM and LHRMA

As a member of LHRMA you have access to a local network of HR professionals in the Lincoln area, as well as professional development programs and other products and services that help you broaden your skills and make you more valuable to your organization. There are additional resources and services available through SHRM membership which are a perfect fit with the benefits you receive from being a member of LHRMA.

SHRM membership provides you access to industry best practices, sample forms, policies and general HR information, timely legislative updates and the ability to ask specific HR questions. The SHRM website is updated daily with new information, especially on health care reform. SHRM staff is on Capitol Hill every day promoting SHRM’s position on how health care reform and other legislative issues affect our members, the HR profession and YOUR organization.

As a first time member of SHRM, you receive a discounted membership rate of \$145. That’s only 40 cents per day! Simply join by going online at “https://ecom.shrm.org/TimssSolutionSite2004_tpro/EBusinessDefault.aspx” Input code CHNCD to receive your discount.

Maximize your opportunities and become a member of SHRM. It’s a winning combination!





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LHRMA RESOURCE

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