



Lincoln  
Human  
Resource  
Management  
Association



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[www.lincolnhrr.org](http://www.lincolnhrr.org)



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Volume 5, Issue 5

May, 2014

**Program: A Capitol Conversation**

**Presented by: Senators Kate Bolz and Colby Coash**

**WHEN:**

Tuesday, May 13th, 2014  
11:00 – 11:30 Registration  
11:30 – 12:00 Lunch & Announcements  
12:00 – 1:00 Keynote Session

**WHERE:**

DelRay Ballroom, 817 R Street, Lincoln, NE

**Parking** in one of the city garages will be validated at the registration table.

**COST:**

**Program Registration Fee:** LHRMA members—\$15  
Guests / All Other Attendees—\$25  
College Student Chapter Members—FREE (You must register with Jenessa Keiser, College Relations Chair)

**MENU:** Annette’s Catering: Fiesta Mexican Buffet, pasta salad, fresh fruit and assorted desserts.

**DEADLINE:** Register/cancel your registration by **12:00 noon, Friday, May 9<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.

**About Our Program:**

The legislative session has concluded. Come to the May luncheon program to hear Senator Katie Bolz and Senator Colby Coash discuss a variety of legislative issues, including:

- Employment-related bills that passed this session and how your employer may be affected;
- Current “hot topics” in the area of employment law on the state and federal level;
- How LHRMA can be a resource to state senators;
- The best way to communicate our position on an issue; and
- How LHRMA could bring an issue of concern to a senator and/or propose legislation.

If time allows, there will be a question-and-answer period. Come prepared with your questions!

## About our Speakers:

### Senator Kate Bolz

Elected to Nebraska Legislature: 2012

Born March 1, 1979, in Lincoln.

Education: Graduate of Palmyra High School, 1997; Nebraska Wesleyan University, 2001;

University of Michigan (M.S.W.), 2005.

Occupation: Social worker; instructor

Member: National Association of Social Workers, Nebraska Chapter (secretary); executive committee, Lincoln/Lancaster County Human Services Committee (secretary); member, President's Board of Advisors, Nebraska Wesleyan University; Palmyra Presbyterian Church; First Plymouth United Church of Christ; Lincoln Young Professionals Group.

Former member: Emerson National Hunger Fellow, 2001-02.



Kate Bolz, District 29

### Senator Colby Coash

Elected to Nebraska Legislature: 2008; re-elected 2012

Born Oct. 29, 1975, in Bassett.

Education: Graduate of Rock County High School, 1994; University of Nebraska-Lincoln (B.A.), 1998.

Family: Married Rhonda Niewohner, July 27, 2002.

Occupation: Director of staff development, Collaborative Industries, Inc.

Member: Blessed Sacrament Church; board member, Association of Community Professionals.



Colby Coash, Dist. 27

## 2014 May Basket Raffle

The LHRMA annual basket raffle is taking shape and promises to be exciting. This is a fun event that chapter members look forward to every spring. Raffle proceeds will go to the SHRM Foundation so they can continue to support the Human Resource profession with innovative academic research grants, educational resources, and scholarships.



In addition to purchasing raffle tickets by cash/check at the chapter meeting, you may also purchase them in advance through PayPal. The cost of tickets is: 6 for \$5, 12 for \$10, and 35 for \$25. Ticket purchases of \$25 or more are tax deductible; receipts will be provided.

Your LHRMA Officers have set a 2014 goal for the chapter to reach the next SHAPE level of recognition.

All board members have agreed to donate at least \$25 to the Foundation this year.

So buy your raffle tickets on line, write a check or bring cash to help the SHRM Foundation support the Human Resource profession and have fun!

We wish to thank the following businesses that have already donated raffle items: Artisan Salon and Esthetics, Starbucks, Pampered Chef, Jimmy Johns and Let's Talk Dirt. If your organization is interested in donating a basket, please contact Denice Sears at: (402) 797-2312 or [hmandas@windstream.net](mailto:hmandas@windstream.net).



## President's Message

Melissa Price, LHRMA President

As a local chapter of the Society for Human Resource Management (SHRM), we annually submit the SHRM Affiliate Program for Excellence (SHAPE) report. SHAPE has been designed by SHRM to ensure stronger cooperation between SHRM and their affiliated chapters. This report outlines the basic requirements that chapters must meet to align with the national organization's overall objectives and focuses on outcomes from chapter-sponsored initiatives which are strategically focused. SHRM uses a tiered awards program to recognize chapter achievements under SHAPE.

I am pleased to announce that LHRMA received the silver award for its work in 2013.

In addition to submitting chapter information and meeting basic SHRM requirements, strategic initiatives were completed throughout the year. A brief summary of each of the three initiatives are listed below –

- Increase SHRM and local-chapter membership by 4% through networking, advertising, social media, etc.
- Create a workforce readiness initiative by creating summer information technology internships for high school students – our First Jobs Lincoln program
- Continue to promote and grow HR certification through study groups and expanding upon our distance learning option for HR professionals across the state

We were very successful last year with our initiatives and continue to grow into 2014. Thank you for your continued support as members to the direction of our organization! As well as, a huge shout out to the 2013 LHRMA Board of Directors for their leadership of another successful year!

I would also like to congratulate the 15 companies recognized on April 16<sup>th</sup> at Lincoln's Best Places to Work luncheon! It was a fantastic event that LHRMA was again able to sponsor. I am so pleased that over half of the companies honored have members of LHRMA. It is appreciated that so many best places to work in our community find value in our organization. Again, congratulations!

— Melissa Price  
mprice@nebook.com



### Upcoming Programs and Workshops:


- June 10—Why Traditional Performance Reviews Don't Work with Chad Thies @ Hillcrest Country Club
- July 8—From Gratitude to Greatness with Mary Kay Mueller @ Country Inn & Suites  
Workshop—Communication at Work: How to Say What You Mean
- Aug. 12—Affordable Care Act with Randy Limbeck @ Wilderness Ridge  
Workshop—Affordable Care Act

Sept. 11 & 12—2014 SHRM NE State Conference @

Oct. 14—Social Media Panel @ The Isles

Nov. 11—Aligning Values & Beliefs with that of our Organization with Paula Pace @ Lincoln Firefighter's Hall

Dec. 9—December Social @ Grata

 Find us on Facebook.  
Become a fan and join  
the conversation.

# Legal Update

## Commonly Used Severance Agreement Provisions Under Fire

by Tara Tesmer Paulson, Attorney

Rembolt Ludtke LLP

An employer who has to terminate an employee or make a reduction of their workforce must make these decisions with a plan of action and take measured steps to assure their business is protected from wrongful termination liability. Many employers seek an attorney's assistance in preparing severance agreements to avoid post-termination liability. A well-drafted severance agreement is the best and most cost-effective way for an employer to have an employee release the employer of potential claims and avoid expensive litigation. But can we be certain that the agreements are enforceable?

It appears that the EEOC may be targeting covenants not to sue contained in severance agreements. Recently, the EEOC filed a lawsuit against CVS which has the potential of invalidating the severance agreements that we use every day. In the lawsuit, the EEOC alleged that the standard severance agreement that it provided to three employees unlawfully restricted the employees' rights to communicate with the EEOC and file discrimination charges. What was the language that caused the EEOC to sue CVS? The EEOC did not specify in its news release, but the complaint took issue with the following provisions:

- A cooperation clause, which required the employees to notify CVS's general counsel upon receipt of any request relating to an administrative investigation or other legal matter.
- A non-disparagement clause, which prohibited the employees from making any statements that disparage or harm CVS's reputation.
- A confidentiality clause, which prohibited the employee from disclosing any personnel information.
- A general release, which included releasing any claims of discrimination.
- A covenant not to sue, which prohibited the employee from filing any complaints, actions, lawsuits, or proceedings against CVS, but which expressly carved out the employee's right to participate in, or cooperate with, any state or federal discrimination proceeding or investigation. The qualifying sentence noted that "[n]othing in this paragraph is intended to or shall interfere with Employee's right to participate in a proceeding with" the EEOC or comparable state agency, "nor shall this Agreement prohibit Employee from cooperating with such agency in its investigation."
- An attorneys' fees provision, which required the employee to reimburse CVS for its reasonable attorneys' fees incurred as the result of a breach of the agreement by the employee.

Court decisions have made clear that severance agreements cannot prohibit employees from filing a charge of discrimination or suggest that an employee cannot cooperate with the EEOC or comparable state agency in connection with an investigation. However, the language in CVS's severance agreement largely mirrored the language approved by the EEOC in the Kodak Consent Decree. The EEOC's lawsuit against Kodak in 2006 which alleged Kodak's template release agreement violated Title VII and the ADEA by containing language that explicitly prevented employees from assisting other employees with their claims of discrimination. One week after the lawsuit was filed, the EEOC entered into a consent decree. The Kodak Consent Decree contained express language that Kodak was required to use in future release agreements. Given that the EEOC had blessed such language, many attorneys used such language in their standard severance agreements.

In fact, CVS's severance agreement contained language modeled after the language approved by the Kodak Consent Decree; however, the EEOC now claims this language is "overly broad, misleading and unenforceable." The EEOC claims the provisions listed above could "deter" an employee from filing a charge or discrimination or participating in an EEOC investigation. The complaint further alleged that more than 650 employees entered into separation agreements with these provisions and asked the court to provide all former employees who were subject to the separation agreement 300 days to file a discrimination charge.

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This case has the potential to be very significant and warrants monitoring. Many employers have used agreements that contain language similar to each of the six provisions the EEOC is challenging. Regardless of the outcome, employers should review their standard severance agreement terms and take note of the EEOC's new position towards severance agreements.

*Paulson is an attorney with the Lincoln-based law firm of Rembolt Ludtke LLP and may be reached at (402) 475-5100 or [tpaulson@remboltlawfirm.com](mailto:tpaulson@remboltlawfirm.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.*

## Workforce Readiness Committee Updates

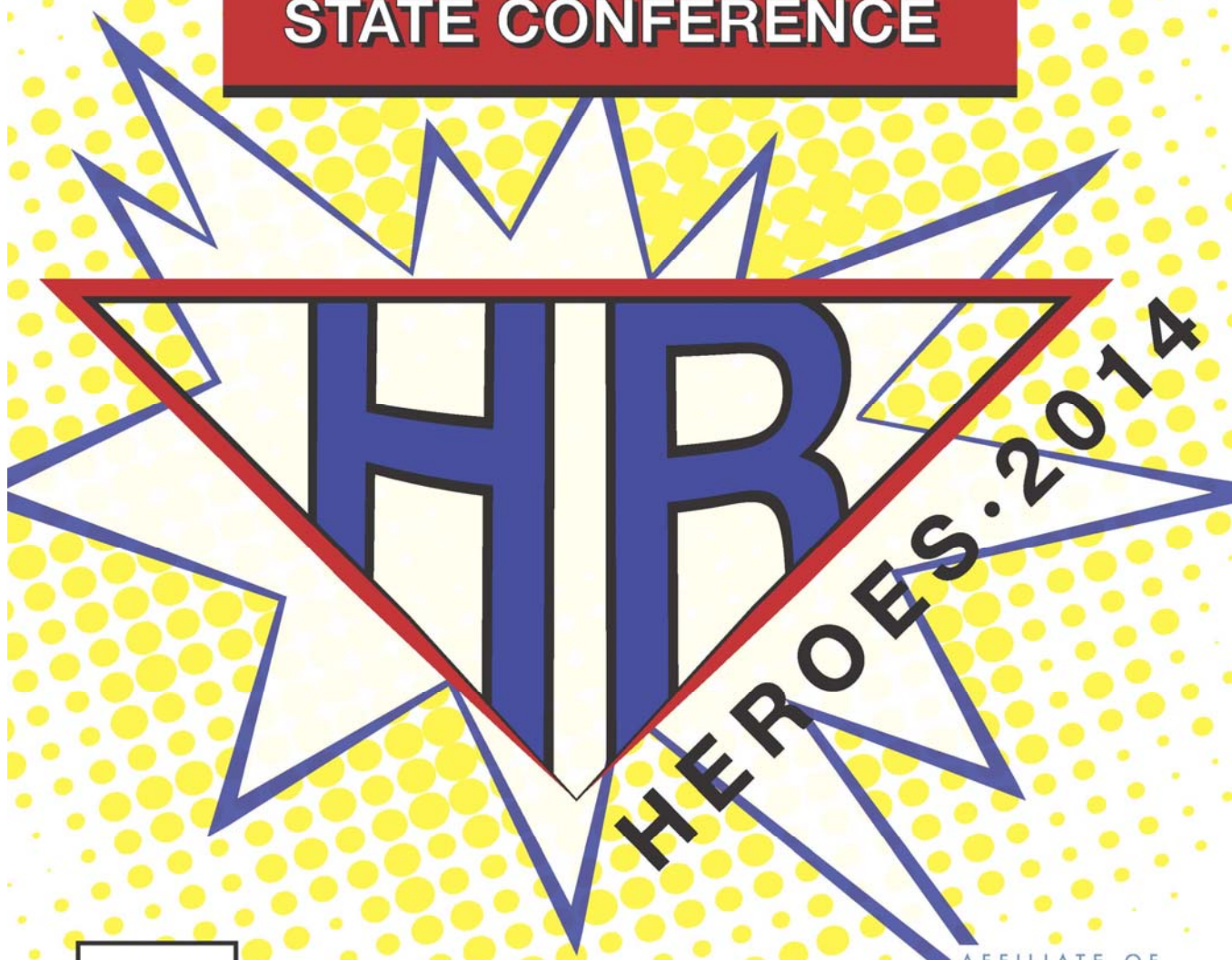
Submitted by Kim Michael, Chair

The Workforce Readiness Committee (WRC) has successfully implemented year two of the 1<sup>st</sup> Job-Lincoln project! Here are some highlights of our fantastic progress to date:

- A webpage was added to LHRMA's website at <http://lincolnhr.org/blog/1st-job-lincoln-project/> that contains many new and updated documents about the project.
- Be sure to "like us" on our Facebook page to receive current updates: Facebook: <https://www.facebook.com/1stJobLincoln>
- 2 additional high schools joined our project collaboration this year – Lincoln Lutheran and Pius X.
- 38 students from LPS, Lincoln Lutheran, and Pius X are registered to participate.
- 14 Champion Employers from the community stepped up to the plate to sponsor 17 summer internships (this is an increase by 4 employers from last year!): **THANK YOU: Agilx, Assurity Life Insurance, Cabela's, Duncan Aviation, Kaplan University, Lambert Vet Supply, NCEE Labs, Nebraska Dept. of Corrections, Phoenix Web Group, Powderhook, Tabitha Health Care, Talent Plus, TMCO, and UNL-College of Business Administration.**
- March 25: "ACE IT" event was held for students, a workplace preparedness session. ACE IT stands for "accountability, customer service, and enthusiasm in the work place."
- April 15: Mock interviews were conducted with the students, which is the second required preparedness event. Thank you to the following HR professionals who volunteered their time and talents to this: **John Coffey, Jennifer Harman, Leon Holloway, Milijana Ilic, Kenda Fink, Angie Jones, Cindy Kaliff, Jane McGee, Kim Michael, Jennifer Sanchez, Joel Scherling, Jill Watkins, and Kelly White.**
- May 2: We are busy preparing for our Champion Employer luncheon and job fair, the third required event prior to the students beginning their summer internships.

# SHRM

STATE CONFERENCE



SEPT.  
11-12

AFFILIATE OF  
**SHRM**<sup>®</sup>  
SOCIETY FOR HUMAN  
RESOURCE MANAGEMENT

 **SHRM NEBRASKA STATE COUNCIL**  
Society for Human Resource Management

## WELCOME NEW MEMBERS

**Narin Ehrisman**  
Administrative Assistant  
Lincoln Electric System  
nehrisman@les.com

**David Sharp**  
Manager, Human Resources  
Farmland Foods  
david.sharp@cooksham.com



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

## UPDATES

**Amber McIntyre**  
Nebraska Orthopaedic and Sports Medicine  
amcintyre@nebraskaortho.com



### **Drawing Winner**

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

Congratulations to  
**Georgette Kingkade** with  
Continuum Employee Assistance.  
Georgette will receive free registration  
for the May program.

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## **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 [lhurma0048@yahoo.com](mailto:lhurma0048@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!



## EAP Corner

### From BFF to Boss: How HR Can Help!

Lesa Deeker, SPHR, Consultant  
Best Care EAP

One of the most exciting events in a career is that first promotion into the role of managing others. The promotion is exciting for obvious reasons. It is not only recognition for an employee's demonstration of talent and skill, but also typically comes with a higher salary and an increase in prestige.

Promotions come with stress, as well. Instead of just the responsibility for completing their own work, they now have to learn to manage work they don't have direct control over. This is in addition to managing the diverse personalities of their team members. Research conducted by the leadership development firm, Manchester, Inc., reveals that 40% of first-time managers fail during their first 18 months on the job. And 82% of the time it's because these otherwise smart, capable, and reliable people did not make the mental and emotional transition from coworker to leader. Here are five things Human Resources can do to help make this transition from BFF to Boss easier for new managers in your organization.

1. Provide your organization's new managers with training in relevant labor laws and in your human resources policies and procedures. The more new managers know about what pitfalls to avoid and when it would benefit them to involve you, the easier your role will be.
2. Coach them in conducting fair and accurate performance appraisals using your performance management system. Your new managers may perceive performance management as an annual event rather than an ongoing process. It is necessary for them to understand the purpose of the process and how to use it as a tool for managing their employees.
3. Teach them to become skilled with interviewing job candidates. Your organization may depend on human resources to recruit and pre-screen candidates for open positions, even so, your hiring managers are typically involved in interviewing and selection. Work with your new managers to help them create job-related interview questions and provide realistic previews of the actual work for job candidates. Better interviewing leads to hiring better candidates and improves retention.
4. Once your new manager has hired a new employee, help that manager with onboarding. Coach new managers in things they can do to help employees get up to speed faster, such as introducing the new employee to their team, providing a mentor or partner to help when the manager is unavailable, touring your facility, or checking in with the new employee regularly. All these seem like simple and obvious actions for new employee orientation, but they are the things that can get lost when new managers are still learning their own new responsibilities.
5. Guide your new managers in how to respectfully and appropriately use your discipline and termination processes. On occasion it may be necessary to terminate employment for an employee who isn't working out. No manager finds the termination process easy, and new managers may be particularly prone to making mistakes. Ensure that new managers know to involve your human resources department in these situations, both to protect your organization and to protect the new manager from the consequences of a poorly executed termination.

These five recommendations are a few of the things you can do to ensure your newly promoted managers are equipped to succeed. Taking the time up front to coach them in these five areas will save you time in the long run because you will have to deal with fewer employee issues.

If these suggestions are not enough to help you and your new managers feel less stressed by their new role

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and responsibilities, then remember that your EAP can help. Your EAP is a great source of professional, confidential, counseling and support. Best Care EAP also offers coaching and training for managers and employees on a variety of personal and workplace topics, including an upcoming Management Boot Camp on June 19th. For information contact Best Care EAP ([www.BestCareEAP.org](http://www.BestCareEAP.org) | 800-666-8606) today!

## Wellness

### From BFF to Boss: How HR Can Help!

Lesa Deeker, SPHR, Consultant  
Best Care EAP

According to the National Sleep Foundation, adults need about seven to nine hours of sleep each night. However, busy schedules, stress and Jimmy Kimmel can interfere with sleep time. This is a big problem, since regularly skimping on sleep impacts almost every area of your life. In honor of Better Sleep Month, take a few minutes to learn about the effects of sleep deprivation and what you can do to improve your snooze.

#### Side Effects of Sleep Deprivation

- **Impaired Mental Abilities:** Sleep deprivation reduces alertness, concentration, memory and productivity while increasing reaction time and mistakes.
- **Greater Risk of Accidents:** Falling short on sleep can increase the risk for accidents, including on-the-job injuries and automobile crashes.
- **Emotional Upsets:** Skimping on zzzs makes it difficult to manage stress, anger and other emotions. Long term, it can increase the risk for depression.
- **Increased Health Risks:** Chronic sleep deprivation is strongly linked to an increased risk of weight gain and chronic diseases including high blood pressure, heart disease, stroke and diabetes.

#### Tips for Better Zzzzs

- **Maintain a Consistent Sleep Schedule.** It's tempting to stay up late or sleep in on the weekends, but having a regular bed and wake time through the entire week helps regulate your body's internal clock, which leads to better sleep.
- **Establish a Relaxing Bedtime Routine.** Avoid stressful activities, such as paying bills, in the few hours before bed. Replace these with relaxing activities that help you wind down, such as taking a hot bath, listening to music, stretching or reading.
- **Create an Environment Conducive for Sleep.** Design your bedroom for the conditions you need for sound sleep: cool, quiet and dark. Try blackout curtains, eye masks, white noise machines, fans or relaxation CDs and lowering your thermostat overnight.
- **Avoid Sleep Sabotagers.** Caffeine and nicotine are both stimulants, which can keep you awake or make it difficult to stay asleep; steer clear of both in the few hours before bedtime. And think twice about that night cap – while alcohol can make it easier to fall asleep, it can cause you to wake up more often during the night and prevent you from getting restful sleep.
- **Take Note of Your Naps.** Naps lasting longer than 30 minutes can make you feel groggy and make it difficult to fall asleep at night. Instead, limit naps to 15-20 minutes for an energy boost that won't affect your slumber later.
- **Make Time for Exercise.** Physical activity makes it easier to fall asleep and improves sleep quality. For some people, exercising in the evening can make it difficult to fall asleep; if you are one of them, consider moving your exercise time to earlier in the day.
- **Power Down Your Devices.** Laptops, TVs and other electronic devices can be major sleep thieves, since their electronic glow activates the brain. To fall asleep faster, power down your tech devices an hour or two before bed.

For more information about healthy lifestyle tips and corporate wellness initiatives, call Kelli at (402) 434-5939.



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**We're on the web!**  
[lincolnhr.org](http://lincolnhr.org)



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