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LHRMA
Lincoln Human Resource Management Association

AFFILIATE OF
SHRM
SOCIETY FOR HUMAN
RESOURCE MANAGEMENT

No Regular Program and Workshop in August

2018 SHRM Nebraska State Conference—August 23-24

Hosted by LHRMA—Lincoln Human Resource Management Association

Get tickets now—www.regonline.com



2018 SHRM Nebraska State Conference
Aug. 23-24 La Vista Conference Center

SHRM
Foundation
★ 2015 CHAPTER CHAMPION ★

— SHRM —
SHRM-CP | SHRM-SCP
**RECERTIFICATION
PROVIDER**
2018

**SHRM
EXCEL
2017**

WELCOME NEW MEMBERS

LHRMA welcomes the following new members:

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LHRMA SHRM Certification Study Group

Register by August 17th

Take the Lead. Become SHRM-Certified.

SHRM's global HR credentials, SHRM Certified Professional (SHRM-CP[®]) and SHRM Senior Certified Professional (SHRM-SCP[®]), offer growth, advancement and recognition.

We are pleased to announce that LHRMA is now offering a SHRM-CP/SHRM-SCP study group using the 2018 SHRM Learning System. Our program combines the leadership of experienced facilitators with learning modules based on the SHRM BoCK and interactive study tools that test your knowledge and decision making skills for comprehensive and effective SHRM certification preparation.

This 11 week study group is designed for HR professionals interested in preparing for the SHRM-CP/SHRM-SCP exam, achieving professional advancement and building confidence for addressing today's HR challenges. The Study Group meets on Mondays from 5:30 pm to 8:30 pm from September 10th through November 19th at Southeast Community College's Continuing Education Center.

Registration Fees: LHRMA Member: \$600 – Includes course registration (\$100), SHRM Learning System (\$500). Non-Member: \$675 – Includes course registration (\$100), SHRM Learning System (\$500), 1 year LHRMA Membership for the remainder of 2018 and all of 2019 (\$75)

Registration Deadline is August 17th!

For more information or to register visit lincolnhhr.org. Please contact Amy Spellman at certification@lincolnhhr.org with questions.

President's Message

By Lindsay Selig, LHRMA President



I feel like I say this every month, but seriously, where has 2018 gone?! I hope everyone has had a wonderful summer and enjoyed time in the sun with both family and friends.

For those of you that may have been out of the loop the last two weeks due to vacations or other work responsibilities, I wanted to bring you up to speed on what has been going on within your wonderful HR organization.

July marked our diversity month and to celebrate, we brought in national speaker, Joe Gerstandt. If you have not had the chance to hear Joe speak, he is phenomenal. This month he spoke to LHRMA on diversity and inclusion, as well as, unconscious bias.

For me when I hear diversity and inclusion, I tend to think of not excluding others of a different race, gender, or generally any protected class. However, Joe made a great point. You need to discuss what inclusion means at your organization – is it strictly including anyone of a protect class? Or is the term more broad to encourage the inclusion of diversity of thought? Great question, and one I plan to discuss with the leadership at my organization.

After wrapping up the discussion on inclusion, Joe talked about unconscious bias. He explained that everyone has some form of unconscious bias – I mean we are all human. At one point he stated that “you are not responsible for your first thought, but you are responsible for your second thought and for your first action” – wow, what a powerful statement! I know this was certainly one of my best take aways from the presentation.

In addition, to a great speaker, July also marks the end of the 1st Jobs Lincoln internship program. I want to give a big shout out to Robbie Seybert and the Workforce Readiness committee – they put a ton of time and effort into making sure the program runs smoothly! I also want to thank our Champion Employers. Without their willingness to work with students, the program would not be a success! Finally, I want to congratulate the students that spent their summer months learning. I hope each one of you walk away from this experience looking for ways to better our Lincoln community!

Like I said earlier, where has the year gone?!

Legal Update

FMLA—Protected Breaks Are Found Non-Compensable Under FLSA

By Jerry L. Pigsley, WOODS & AITKEN, LLP

On April 12, 2018, the U.S. Department of Labor’s Wage and Hour Division (WHD) issued an opinion letter answering the following question:

Whether a non-exempt employee’s 15-minute rest breaks, which are certified by a health care provider as required every hour due to the employee’s serious health condition and are thus covered under the FMLA [Family and Medical Leave Act] are compensable or non-compensable time under the FLSA [Fair Labor Standards Act].

FLSA 2018-19

BACKGROUND

Employees entitled to overtime pay provided their employers FMLA certifications from their health care providers “stating that the employees require 15-minute breaks every hour due to their own continuing serious health conditions.” With the employees taking such 15-minute breaks in an 8-hour shift, they would perform up to 6 hours of work.

GENERAL LEGAL REQUIREMENTS

Rest breaks up to 20 minutes in length are ordinarily compensable since they “primarily benefit the employer” by “promot[ing] the efficiency of the employee” and giving the employer a “reenergized employee.” Sec’y of Labor v. Am. Future Sys., Inc., 873 F.3d 420, 430 (3d Cir. 2017); 29 C.F.R. § 785.18; Naylor v. Securiguard, Inc., 801 F.3d 501, 515

(5th Cir. 2015). However, the WHD acknowledged a federal court has found an employee was not entitled to compensation for frequent “accommodation breaks.” Spiteri v. AT&T Holdings, 40 F.Supp.3d 869, 879 (E.D. Mich. 2014). In Spiteri, the breaks were provided to the employee to accommodate the employee’s back pain, which was found to predominately benefit the employee. Id. at 879. The court noted the federal regulation, 29 C.F.R. § 785.18, does not entitle “an employee to take an unlimited number of personal rest breaks during the day and be compensated for all such breaks, as long as they are less than 20 minutes in duration.” Id.

WHD OPINION

WHD found the 15-minute breaks required eight times per day given to accommodate the employee’s serious health condition “predominately benefit the employee and are noncompensable.” WHD recognized that employees are not entitled by the FMLA to compensation for FMLA-protected breaks. The FMLA expressly provides that FMLA-protected leave may be unpaid and provides no exceptions for breaks up to 20 minutes in length. 29 U.S.C. § 2612(c).

The WHD did note that employees who take FMLA-protected breaks must receive as many compensable rest breaks as their



coworkers receive. 29 C.F.R. § 825.220(c). For example, if the employer generally allows all of its employees to take two paid 15-minute rest breaks during an 8-hour shift to drink coffee, smoke, go to the restroom, etc., an employee needing 15-minute rest breaks every hour due to a serious health condition should likewise receive two paid 15-minute rest breaks during his or her 8-hour shift. Id., see also WHD Opinion Letter FLSA-1358 (Jan. 25, 1995).

SUMMARY

LHRMA members can rely upon this opinion letter interpreting the FLSA as an official ruling of the WHD. The opinion letter provides a potential good faith reliance defense for actions that may otherwise constitute a violation of the FLSA.

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 author 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 author of this article, Jerry L. Pigsley, can be contacted at (402) 437-8500, jpigsley@woodsaitken.com, or at Woods & Aitken LLP, 301 S. 13th Street, Suite 500, Lincoln, NE 68508-2578.

Hot Topics For A Healthier Workforce

Changing the Focus Of Wellness

When corporate wellness programs first took off, the focus was primarily on smoking cessation or weight loss goals. Current wellness programs have come a long way since then and program offerings have expanded to focus on more than just the physical aspect of health. Employers are now using corporate wellness programs to increase employee engagement and to become an employer of choice. Companies are doing this by combining more traditional well-being efforts with career development efforts. Wellness goals and career development can be combined to create a more positive work environment and successful employees. This idea of collective well-being will not only help support a healthy workforce but it will increase a company's reputation of caring for its employees.

Mental Health

Mental health problems are becoming more popular now than ever. While mental health remained a stigma in the workplace for many years, more employers are now embracing mental health education as a part of their workplace wellness programs. With 84% of employees experiencing physical, psychological or behavioral symptoms of poor mental health, it's essential to break the stigma of mental illness in the workplace.

Keep Wellness Simple

More workplace wellness programs will be switching to a "less is more" approach. One possible reason for employers not seeing the participation levels they want in their wellness programs is because the program is too complicated. Employees desire simple, uncomplicated wellness tasks and objectives—most likely because they already have enough on their plates. The last thing employers want to do is stress out employees even more by asking them to complete

complicated tasks. Workplace wellness programs can be simplified by focusing on five key factors that contribute to a successful wellness program; accessibility, communication, health assessments, screenings and health education. By keeping employee wellness simple, employers can expect higher participation rates and less confusion surrounding wellness initiatives.

Focus On the Zzzz's

Employers have been discovering the importance of a good night's sleep. Well rested employees ultimately perform better. Unfortunately many full-time American employees are sleep deprived—and it's impacting their work. A 2016 study from RAND Corporation estimated that sleep deprivation costs U.S. employers roughly \$411 billion annually. RAND also found that sleep deprivation leads to lower productivity levels, along with a higher risk of mortality. Expect to see more employers educating employees about the harmful effects of sleep deprivation, and even adding some sleep challenges to their wellness program.

Healthy Vending Choices

Vending machines might just be making a comeback in 2018. While traditional vending machines serving soda pop, candy and greasy chips have made their way out of most health conscious companies, a new type of vending machine is making its way in. Healthy vending machines are stocked with nutritious snacks like mixed nuts, dried fruit, fresh veggies, hummus and healthy drinks. Investing in a healthy vending machine could be a great way to contribute to a healthy workplace culture. Employees will be much more likely to reach for healthy foods when they are readily available in a company kitchen or break room.

Madonna Fit For Work Wellness Specialist can assist you in corporate wellness programming, boosting employee productivity, and employee satisfaction, and scheduling a company health screening. To schedule a Fit For Work Service, call 402.413-3938

Supervisor NOTES:

Common stress triggers in the work place.....

There are several causes of work place stress. Great managers identify stressors within their department and put strategies in place to minimize the risk of negative stress for their team. Here are the most common stressors and tips for dealing with those stressors:

1. Demand-employees are able to cope with the demands of their job

Stress triggers: work duties/ overload, boring or repetitive work

Positive management: awareness of team abilities, continually monitoring workload/ limiting additional work when team is under pressure or up against deadlines, ongoing review of processes to identify improvements

2. Control – employees are able to have a say about how they do their work

Stress triggers: not being able to manage demands of job and life outside work, rigid working patterns and deadlines.

Positive management: trust employees to do their work/ empowerment, steer employees in a direction rather than impose your own view

3. Role – employees understand their role and how it fits into the big picture

Stress triggers: lack of clarity of job role, lack of one-on-one communication/feedback

Positive management: keep teams informed of what is happening in department and organization, schedule regular meetings and

keep two way communications flowing

4. Support – employees receive adequate support and info. from managers

Stress triggers: lack of support and encouragement from managers and fellow colleagues, culture of long work hours, lack of withholding/sharing information

Positive management: provide supportive/constructive criticism, operate in a “no blame” culture and have a problem solving approach, be flexible and support employees' requests for time off

5. Relationships – employees treat each other with respect

Stress triggers: poor working relationships with manager/team, poor/ combative/ confrontational communication style

Positive management: listen objectively to both sides of conflict, have a positive approach and stay calm under pressure, treat employees equally

Here are a few of the upcoming training programs for managers:

CONFLICT MANAGEMENT BOOT CAMP

Sept. 13/\$219 PP

MANAGING FOR MAXIMUM RESULTS

Oct. 11/\$219 PP

MANAGEMENT BOOT CAMP

Nov. 1/\$219 PP

LOCATION: 9239 W. Center Road, Suite 223, Omaha, NE, 9 am – 4 pm

[Current Best Care EAP clients receive a discount on these classes.](#)

To register, call 800 801-4182 or send an email to eap@bestcareeap.org.



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