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LHRMA
Lincoln Human Resource Management Association

AFFILIATE OF
SHRM[®]
SOCIETY FOR HUMAN
RESOURCE MANAGEMENT

June Program

Program on June 11: Recruitment Creativity – Hiring the Formerly Incarcerated

Join us for our Program on Tuesday, June 11. Pam Bourne, an Attorney with Woods & Aitken focusing on Labor & Employment and Jeremy Bouman, Founder and CEO of RISE will present from 12:00 to 3:00 p.m.

About the Presentation

Are you struggling to fill open spots? Have way more open jobs than candidates? **Maybe it's time to get creative!**

Nearly 700,000 people are released from prison each year and are locked out of the job market. High unemployment and recidivism rates for returning citizens suggest that the first step in beating the odds is helping these men and women find gainful and steady employment. **89% of people that recidivate don't have a job at the time they re-arrest. 1 in 3 Nebraskans go back to prison once they get out within 3 years.**

SHRM Foundation
2018 CHAPTER CHAIRMAN

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

SHRM EXCEL
2017

About the Presentation (continued from page 1)

Unemployment in Nebraska is at an all-time low. Is your business ready to get creative to meet workforce needs and offer a second-chance? **Before you say “No way that would work for our company”** – Join Pam Bourne and Jeremy Bouman as they discuss a workforce readiness program in Nebraska called RISE that is preparing returning citizens for employment both pre-release and post-release. You will also learn about federal incentives your business can access through second chance hiring including tax credits, insurance bonds and wage reimbursement. Finally, you will also learn about the EEOC Enforcement Guidance on the Consideration of Arrest and Conviction Records and best practices for considering criminal record information when making employment decisions.

About the Presenters

Pam Bourne represents management exclusively on workplace legal issues. Her main focus is on **preventative employment law issues**. Pam's goal is to help clients pre-vent employment claims from arising and to advise on HR strategies that will result in a sound defense position should a claim occur.

Jeremy Bouman currently serves as the Founder and CEO of RISE, a nonprofit that provides entrepreneurship, employment, and character development training to currently and formerly incarcerated men and women.

June Program

WHEN AND WHERE

Tuesday, June 11, 11:15 — 3:00 p.m. at Wilderness Ridge, 1800 Wilderness Woods Pl., Lincoln

REGISTRATION FEES:

Lunch Program Registration Fee: LHRMA members – \$15

All Other Attendees – \$25

Workshop Registration Fee: All Attendees—\$35

Luncheon attendance is free for SHRM designated student chapter members. Current SHRM designated chapters include: University of Nebraska-Lincoln. Students must register through Jenessa Keiser, College Relations Chair, college.relations@lincolnhhr.org for free meeting attendance.

WELCOME NEW MEMBERS

LHRMA welcomes the following new members:

Galina Popov

Human Resource Specialist

Duncan Aviation

Galina.popov@duncanaviation.com

Danielle Decker

Human Resource Specialist

Duncan Aviation

Danielle.decker@duncanaviation.com

Kassandra Crawford

Service Manager

Wells Fargo

Kassandra.crawford@wellsfargo.com

Anjilynn Antonelli

HR Leader

Koch

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Liisa Wilkins

Director of HR

CIP

liisaw@rentcip.com

**RENEW YOUR
MEMBERSHIP**



2019 LHRMA Membership Renewals

Visit www.lincolnhhr.org to renew!

President's Message

By Lindsay Selig, LHRMA President



I can't believe that May is already over and summer is in full swing – school's out, vacations have started and it's once again time to write my monthly newsletter article.

Each month as I sit down to write, I'm hoping some sort of inspiration will come to me, but I'm not going to lie, this month was a little bit of a struggle. Sooo...I thought why not take a look at all the changes that we as HR professionals have to look forward to in the upcoming months.

1. Department of Labor has recently released their new proposed salary threshold for the overtime exemption. They have proposed to move the threshold from \$23,660 per year to \$35,308 per year effective January 1, 2020. I know, I know, we have seen this before, but from everything I have heard – this one may stick, so it's time to start that planning for this change once again.
2. IRS has officially released the 2020 HSA limits. They are raising the single limit by \$50 and the family limit by \$100. Pretty similar to what we have seen the last couple years, but I certainly appreciate the decision so early in the year – makes starting to plan for Open Enrollment a little easier.
3. 3.EEO-1 Component 2 Salary Data will now be due on September 30th. This will include salary data for 2017 and 2018. At least we have a couple months to work on this – hope our payroll providers are also on the ball to help us with all of this!

Isn't HR compliance fun?! Or maybe not... Either way, I'm hoping you all have these changes on your radar and are ready to start your planning for 2020.



Legal Update

Sexual Orientation and Gender Identity Employment Law Issues

Susan K. Sapp, Senior Partner
Cline Williams Law Firm

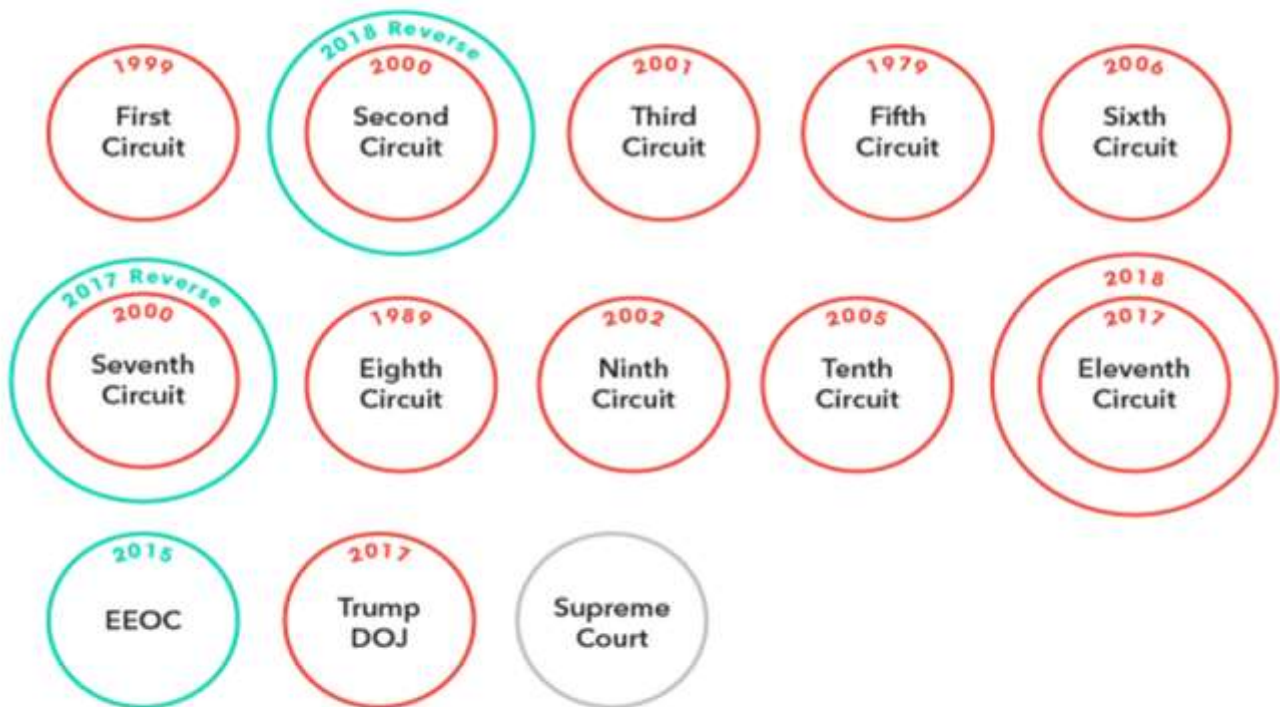


Current Status of the Law

Currently, the federal courts are split on the issue of whether federal law prohibits discrimination based on sexual orientation. There is a similar split on the issue of gender identity discrimination, with the EEOC supporting employment protections for both groups of people. The charts below identify how various courts and governmental agencies view the two issues.

Does Federal Workplace Law Prohibit Discrimination Based on Sexual Orientation?

Yes No Undecided

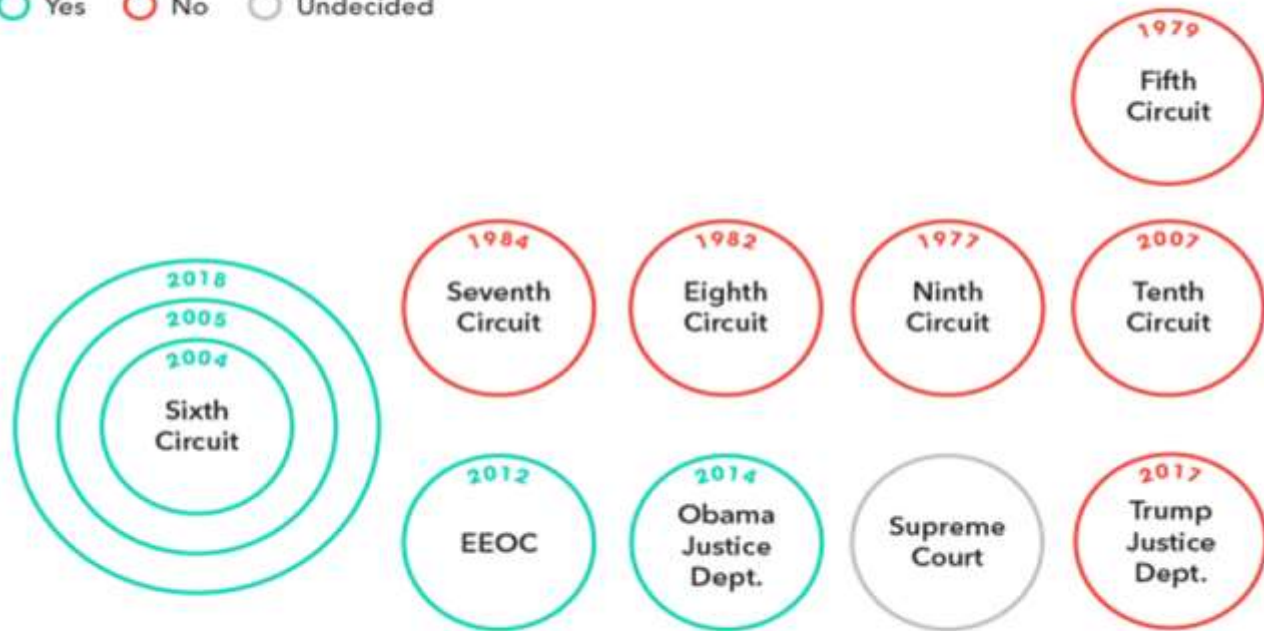


Note: Significant decisions by federal circuit courts and the EEOC; the position of the Trump administration's Justice Department

Legal Update (continued from page 5)

Does Federal Workplace Law Prohibit Discrimination Based on Gender Identity?

Yes
 No
 Undecided



Note: Significant decisions by federal circuit courts and the EEOC; positions of the Justice Department during the Trump and Obama administrations

Bloomberg Law

Answers appear to be on the way. The United States Supreme Court has recently decided to review two cases involving sexual orientation discrimination under Title VII:

Altitude Express Inc. v. Zarda (Second Circuit)
Bostock v. Clayton County, Ga. (Eleventh Circuit)

And one case involving gender identity discrimination under Title VII:

R.G. & G.R. Harris Funeral Homes v. Equal Employment Opportunity Commission
 (Sixth Circuit)

The Altitude Express case involves Daniel Zarda, who alleged that he was fired from his job as a skydiving instructor because he was gay. A female customer had voiced concerns about being tightly strapped to Mr. Zarda during a tandem dive. Mr. Zarda, hoping to reassure the customer, told her that he was gay “and had an ex-husband to prove it.” The customer’s boyfriend complained and Mr. Zarda was fired. Altitude argued that Mr. Zarda was fired for “inappropriate behavior” and that he had touched the client inappropriately.

In 2014, a U.S. district court in New York granted summary judgment to Altitude Express on the Title VII claim, ruling that Title VII does not protect sexual orientation. Zarda appealed to the Second Circuit.

Legal Update (continued from page 6)

A divided en banc Second Circuit ruled that Title VII prohibits sexual orientation discrimination: **“Sexual orientation discrimination is motivated, at least in part, by sex and is thus a subset of sex discrimination.”**

The Bostock v. Clayton County case involves Gerald Bostock who had worked for Clayton County as a child welfare services coordinator since 2003. In 2013 he began participating in a gay recreational softball league. Shortly thereafter, Mr. Bostock was fired for “conduct unbecoming” of the county’s employees. **District court in Georgia dismissed the lawsuit for failure to state a claim.** Bostock appealed to the Eleventh Circuit. The Eleventh Circuit panel affirmed the lower court, holding that Title VII does not prohibit discrimination on the basis of sexual orientation.

The Harris Funeral Homes case involves Aimee Stephens (formerly known as Anthony Stephens) who was fired from a Michigan funeral home after she announced in 2013 that she was a transgender woman and would start working in women’s clothing. **The Sixth Circuit ruled for Stephens, holding that discrimination based on transgender status is barred by Title VII: “It is analytically impossible to fire an employee based on that employee’s status as a transgender person without being motivated, at least in part, by the employee’s sex,”** the court said, adding, **“Discrimination ‘because of sex’ inherently includes discrimination against employees because of a change in their sex.”**

Having determined that the funeral home violated Title VII’s prohibition on sex discrimination, **the Sixth Circuit considered whether the Religious Freedom Restoration Act (“RFRA”) precluded enforcement of Title VII against the funeral home.** RFRA prohibits the government from enforcing a religiously neutral law against an individual if the law substantially burdens the individual’s religious exercise and is not the least restrictive way to further a compelling government interest. **The Sixth Circuit said the funeral home’s religious exercise would not be substantially burdened by continuing to employ Stephens.**

The Supreme Court will consider whether Title VII prohibits discrimination based on:

- (1) status as transgender or
- (2) sex stereotyping

It is notable that in Price Waterhouse v. Hopkins (1989), the United States Supreme Court ruled that discrimination against employees who do not conform to gender stereotypes is a form of sex discrimination, which may be an indicator of how at least some of the current justices may view the pending issues.

SCOTUS will hear the cases in October 2019. Decisions are expected by June 2020. Many commentators are predicting a 5-4 decision against Title VII protection for sexual orientation: Alito, Gorsuch, Kavanaugh, Roberts, and Thomas in the majority, with Breyer, Ginsburg, Kagan, and Sotomayor dissenting.



Legal Update (continued from page 7)

Understanding Sexual Orientation and Gender Identity in the Workplace

Sexual Orientation — Who you are romantically and/or sexually attracted to

Transgender — Identity, Expression

Common terminology:

LGB - **The terms lesbian, gay, and bisexual describe a person's sexual orientation and collectively include women and men who are predominantly or sometimes attracted to individuals of the same sex.**

Gay – Term used to describe individuals who are primarily emotionally, physically, and/or sexually attracted to members of the same sex.

Asexual- A person who has no sexual feelings or desires.

Demisexual- A person who does not experience sexual attraction unless they form a strong emotional connection with someone.

Pansexual- A person who is not limited in sexual choice with regard to sex, gender, or gender identity.

Skoliosexual- A person who is sexually attracted to non-binary identified individuals or transgender individuals.

Gender Identity- The gender that an individual identifies with, irrespective of biological sex

Queer – Umbrella term to describe individuals who identify as non-heterosexual.

Cisgender- An individual whose sex matches their gender expression and identity.

Transgender- An individual whose sex does not match their gender expression and identity.

Agender- The gender that an individual identifies with, irrespective of biological sex.

Bigender- A person whose gender identity is a combination of two genders.

Hijra- India and Pakistan identified third gender.

Two-Spirit- Native American identified third gender.

Gender Binary- The idea that there are only two genders, male and female, and that a person must strictly fit into one category or the other.

Genderqueer- Describes a person whose gender identity falls outside the traditional gender binary.

Gender Dysphoria- Distress experienced by some individuals whose gender identity does not correspond with their assigned sex at birth.

Gender Fluid- Describes a person whose gender identify is not fixed

Legal Update (continued from page 8)

Outdated Terms

- Hermaphrodite
- Homosexual
- Sexual Preference
- Transgendered (condition)
- Tranny
- Sex Change

Preferred Terms

- Intersex, disorder of sex development
- Gay, Lesbian, Bisexual
- Sexual Orientation
- Transgender Person
- Gender Affirmation Surgery

3.40% of the population self-identifies as LGB (approx. 10.8 M). 0.3% of adults in the United States identify themselves as transgender [approx. 1 million people (Gates, 2011)]. Others have indicated that 1 out of 500 identify as transgender (Bradford & Mayer, 2008).

Nondiscrimination Policies may need to be revised to include sexual orientation and gender identity nondiscrimination and anti-harassment protections, depending on the outcome of the cases pending before the United States Supreme Court.

In the mean time, training is recommended to help managers and employees be sensitive to gender identity and sexual orientation by incorporating these topics into harassment training programs. Employers should explain to employees that regardless of their personal beliefs, it is important that employees behave appropriately and continue to work cooperatively and respectfully with their transgender and LBGTO colleagues. It should be clearly stated that failure to behave in this manner could result in discipline, including termination.

Dress Code policies that require professional business attire irrespective of sex or gender are **also recommended**. For employers who have a “male” and “female” version of their uniforms, employees may need to be allowed to wear the uniform that comports with their gender identity, depending on circumstances.

Employers will want to use the appropriate pronouns consistent with transgender employees' gender presentation and request. To the extent there is uncertainty about an employees' gender, it may be appropriate to respectfully communicate with them regarding their preference in a confidential matter and agree with them on a communications plan for notifying coworkers and customers of any change to pronoun or name use.

Employees should generally be permitted to use the restroom facilities that correspond with their gender identity and expression. Employers should also consider adopting gender neutral or single occupant facilities. If employers have a single occupancy restroom, employees who object to sharing a common restroom with a transgender employee should be provided with the opportunity to use those facilities.

Leave Policies and FMLA implementation should treat transgender medical procedures like any other medically necessary procedure. Health Insurance and Benefits should be coordinated with the benefit plan administrator. Limitations should likely be removed on gender-specific services (e.g., mammograms) based on gender at birth.

Legal Update (continued from page 9)

Employers should also consider revising eligibility restrictions for infertility coverage by creating exceptions or otherwise amending provisions that require employees to try to conceive naturally for a period of time before becoming eligible for infertility coverage, as well as considering offering coverage for transgender medical procedures, such as genital surgery.

Although a transgender employees' transition may become a matter of public knowledge in the workplace, personal details about any employee's transition are private and entitled to confidentiality. Be prepared to update or change a transgender employee's name and gender in certain employee records. Consider which records must reflect employees' name and sex at birth, and which records can be modified (e.g., email addresses, name plates, business cards, security badges, etc.).

Employers should be aware that 33% of transgender individuals say that, if permitted the choice, they would prefer not to be assigned either gender designation (2015 survey). 12% of millennials identified as something other than male or female (2017 study).

A review of policies, handbooks, work forms, and other documentation should be completed to **remove, where possible, specific gender designations. No need to say "his or her," or "he or she," or "him or her." Modern English permits you to use "they," "them," and "their" as singular, gender-neutral pronouns (AP Stylebook adopted this change in 2017).** If an employer learns that an employee prefers not to be treated as male or female, ask the employee what assistance they might need to have a professional, comfortable work environment.

In sum, a proactive approach is indicated. Employers should not wait to implement changes and training until an employee complains or an employee begins a gender transition process. Practical changes can be implemented now, pending rulings from the United States Supreme Court.



TECHNOLOGY AND THE WORKPLACE



By: AARON KADAVY, LIMHP, Continuum EAP Professional

Technology is everywhere. Beeps, buzzes, ringtones and notifications flood its users with requests, questions, reminders and memes. Businesses are impacted by the ongoing world of technology, too, as it has allowed business and the workforce to move beyond the walls of a traditional office. Work is accessible everywhere, from an office, cafe, home, or even on vacation. It can also have a negative impact as well, as technology “addictions” can appear with even the most diligent employees, resulting in lost time at work, poor focus and underperformance. Technology impacts mental health, too, as research consistently points toward screen time being a major contributor to stress and burnout.

TECHNOLOGY AFFECTS PRODUCTIVITY

Technology brings many obvious benefits. It allows employees and businesses to work with each other across continents. It provides instant access to tools and systems needed to be productive. However, there are downsides. For one, it affects a worker’s ability to get into an effective workflow. Recent research has shown that interruptions, even as brief as a couple of seconds, reduce concentration flow which leads to increased errors. Smartphones prompt users to check them frequently, which reduces work productivity. Furthermore, hearing your phone buzz or ring, even if you do not immediately respond to it, can hurt work performance.

TECHNOLOGY AFFECTS MENTAL HEALTH

It’s no secret that screen time can have an adverse effect on mental health. FOMO, or fear of missing out, is an increasing concern as it is considered a strong indicator in technology overuse. Overuse of mobile devices has led to higher levels of depression and anxiety, as it often interferes with work, disrupts pleasurable activities, and replaces face-to-face interactions at work. One recent study published by Cigna Insurance reported that nearly half of Americans consistently feel alone or left out. Though social media and screen use alone do not necessarily cause these feelings, it is worth noting that taking appropriate steps to use screen time more effectively can both increase productivity as well as improve relationships among co-workers.

TIPS FOR USING TECHNOLOGY WELL

- 1 **Create distraction-free time:** The workday is full of distractions – emails, phone calls and buzzing notifications can all create added distractions. Encourage employees to block out “distraction-free time” in order to help prevent interruptions and improve productivity and happiness.
- 2 **Encourage screen-time boundaries:** Make meetings and company gatherings a screen-free zone. (This includes phones, watches and laptops.) Articulate this at the beginning of the meeting. Plus, establishing limits at specific times will have greater effectiveness than a simple blanket ban of technology.
- 3 **Practice “technology hygiene”:** Make an effort to put your devices away. Encourage employees to reduce access to email at home. Utilize your smart phone’s screen time tracking app to determine how much time you spend looking at your phone each day, then make adjustments.
- 4 **Use your EAP:** Technology use can be a hot-button issue. EAP is a resource for both employees and leaders to consult on specific needs of the individual and the workplace. Remind your employees that EAP professionals are willing to work with technology use, along with many other issues that may arise in employees’ personal and professional lives.

For more information about Continuum EAP and its services, contact Gail Sutter.

CELLS PHONES CAN BE GREAT OR A REAL PAIN IN THE NECK

A study in The Spine Journal, "Text Neck": an epidemic of the modern era of cell phones revealed how we need to use good body mechanics whether at work or for leisure. The study showed that approximately 80% of the populations between the ages of 18-44 say they carry their cell phones with them for over 90% of their waking day. Incorrect use or constantly looking down can lead to a number of spinal problems. This is often referred to as "Text Neck".

We know the head weighs approximately 12 pounds. Looking down at your cell can increase this weight depending upon how much you bend your neck and can end up adding 60 more pounds of weight to your neck. A study showed persistent neck and upper back pain associated with time spent texting. Improper spinal posture creates an abnormal spinal curve alignment and disc herniation's.

Problems caused by improper usage of electronic devices can be effectively treated with chiropractic to minimize and reverse their negative effects on the spine and your health. Text messaging has proven to cause problems in the neck and shoulders. Your quality of life is dependent upon a healthy and properly positioned and working spine. We know the nervous system becomes imbalanced when spinal position or mobility becomes altered or misaligned. This can result in a host of health problems and symptoms including: problems with immunity, digestion, concentration, energy, breathing, headaches and even heart problems.

5 Simple Strategies to Prevent or Minimize the Effects of "Text Neck"

Hold cell phones at eye level as much as possible.

Text with two hands to create symmetry and minimize spinal imbalances.

Take frequent, long breaks from using electronic devices.

20 second stretch-pull your arms and shoulders back while tilting your head up to look at the ceiling or sky. Do the 20 second stretch at least once every hour.

Regular wellness visits to your Chiropractor.

As a doctor of chiropractic I can detect and correct spinal misalignments to remove the stress from the nervous system including your brain and allow the spine and body to function as they should. This does not require a pain medications or addicting drugs. Your body has the power to heal itself when given the chance.

The spine Journal: Official journal of the North American Society June 2017

"Text Neck': an epidemic of the modern era of cell phones?" -JM Cueller, TH Lanman

Should you have any questions regarding the treatment for text neck give Dr. McCracken a call. Improved health, decreased health costs and increased productivity have been documented in the literature and by Dr. McCracken in over 4 decades of practice. For more information you may reach Dr. McCracken at: drmccchiro@gmail.com



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