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May 2 0 1 2

NLRB and Social Media Topics/EEOC's New Enforcement Guidance

On June 6th, ERA is hosting an educational forum covering two very current topics:

The NLRB is not your Facebook friend: A Review of the NLRB's Treatment of Employers' Social Media Policies -- featuring Jeff Shoskin, a partner with Frost Brown Todd.

This forum covers the NLRB's recent treatment of various social media policies. The types of language in social media policies and employee handbooks that the NLRB finds objectionable.

Whether or not employees are engaging in "protected concerted activity" by discussing terms and conditions of employment with co-workers.

New EEOC Targeted Screen and Individualized Assessment Process for Criminal Background Checks -- featuring Katharine Weber and Caroline DiMauro, partners with Jackson Lewis.

Review EEOC's April 25, 2012, Enforcement Guidance on the use of arrest and conviction records in making employment decisions.

Discussion of the EEOC's Targeted Screen and Individualized Assessment Process.

Review of the EEOC's "Recommended Best Practices" so you can determine which of those practices should be adopted at your company.

Click [here](#) to register for this event.

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From the President



Jennifer Graft, SPHR

TOP HR TRENDS



Many people still emulate David Letterman and his "Top-Ten" list and the business world is no different. Although fun and entertaining, these lists often provide us with the opportunity to stay current, and on the leading edge of new developments – especially as they apply to HR. Here is a list of the "Top-Seven" HR trends from my point of view:

Trend #1: Workplace Flexibility

First the numbers ... Survey data indicate 80% employees desire more flexible work options, yet 50%-60% of the employers don't allow employees to: control which shifts they work; share jobs; work from home; or work a compressed work week.

Workplace flexibility is a way to define how, when & where work gets done & how careers are organized.

Some common workplace flexibility options are: Flex-time; Reduce Time; Flex-careers; Flex place; Phased retirement; Flex Leaves and of course, telecommuting. Workforce Management predicts that by 2018 flexibility will no longer be optional.

Trend #2: War for Talent

As the economy slowly improves, some employers are already facing employee retention and recruiting challenges. Offering employees a flexible work environment affecting scheduling, the amount of hours and the location where work is performed gives employers new tools to effectively manage retention and recruiting.

But that's not all. In today's economy, employers are hard pressed to develop optimal recruiting and employee retention strategies because of a rapidly shrinking pool of skilled workers. One solution implemented by a few ERA members is a return to apprenticeship programs for highly skilled positions.

Talent Communities (methods of social recruiting) are also becoming popular to help establish a pool of candidates.

Trend #3: Talent Management

Peter Drucker coined the term "knowledge worker" and now "knowledge worker" and "manual worker" are no longer mutually exclusive. People loading product onto rail cars certainly work with their hands, but they can also contribute knowledge to the business. That's why an industry leader such as Dow Chemical shares day sales and inventory numbers with everybody in the company, including the workers on the front lines. Dow recognizes that if people understand how their actions contribute or detract from business results, they will do a better job. Talent is everything.

Today, organizations realize that they will be successful if they adopt an internal approach to developing their leaders & their Next-Gen leaders.

Companies should ensure they have desegregated their workforce, by breaking down barriers among levels, using IT to enable collaboration, involving front line decisions & recognizing/rewarding broad input. In a recent survey of CEO's, they rate talent management as the #1 area where CEO's expect dramatic change in the next year.

Trend #4: Employer Branding Returns

An employer brand is the way your organization's prospective applicants, candidates, and employees perceive you as an employer. Those with a strong employment brand reap the benefits from a number of advantages such as: a higher quality candidate pool; more candidates who match the role requirements, meeting or exceeding the expectations of the hiring manager, and relating to the organization's culture; and a greater likelihood for employees to be brand ambassadors for your company.

(Continued to Page 9)

Survey Update



Doug Matthews, PHR

The deadline for the 2012 Executive Survey has been extended until Wednesday, June 6. This comprehensive survey covers salary data for 22 director and executive-level positions. This survey is a bit different from our other surveys, as data will be presented according to the following breakouts: company size, industry, and revenue. Data will be provided on base salary, bonus, and total compensation. Please be sure to participate so that you can receive a free copy of the survey report.

The next questionnaire to come out will be for the 2012 Wage and Salary Adjustment Survey. This is one of our most popular surveys, and it is very

short and easy to complete. Please take a few minutes to participate when the survey comes out. The more data we have, the better our report will reflect the local area. After a few years of little to no increases, many employers are planning to start giving at least a small increase. Make sure that you stay competitive with your wage and salary offerings!

Please do not hesitate to contact the Survey Department at 513.679.4120, toll free at 888.237.9554, or e-mail Doug Matthews at dmatthews@hrxperts.org if you have any questions about our survey processes or need assistance with completing your survey questionnaires.

Here are the current survey deadlines

The 2012 Executive Compensation Survey has been extended until:

**Wednesday,
June 6**

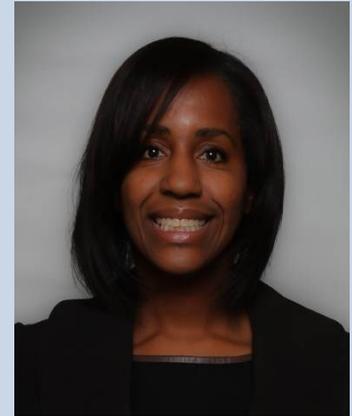
The 2012 Wage and Salary Adjustment Survey will be sent out on:

**Wednesday,
June 20**

To Post or Not To Post?

Court Of Appeals Enjoins Enforcement of NLRB's Posting Rule

By Tammy Bennett,
Association Counsel and
Director of Compliance Services



Tammy Bennett, Esq.

On April 17, 2012, the D.C. Circuit Court of Appeals issued an emergency injunction against the National Labor Relations Board ("NLRB") to halt the implementation of the so-called NLRA notice of rights rule. The posting rule required covered employers to conspicuously post a notice informing employees of their rights to organize and engage in concerted protected activity. Additionally, the rule provided that an employer's failure to post the notice would constitute an unfair labor practice ("ULP") and would toll the statute of limitations for filing an unfair labor claim.

The NLRB faced multiple court challenges to the implementation of the rule. The challenges were predicated on whether the NLRB has authority to issue the rule. Recently, two courts reached different conclusions about the NLRB's rulemaking authority in this regard. On March 2, 2012, a D.C. Circuit Court found that the notice posting provision of the rule was lawful - although the court invalidated the ULP and tolling provisions of the rule. By contrast, on April 13, 2012, a U.S. District Court in South Carolina found that the NLRB lacked authority to create any part of the rule.

By issuing the injunction, the D.C. Circuit Court of Appeals made it clear that for now, at least, employers are not obligated to post the NLRA Notice of Rights poster. This fall this Court will hear the appeal on the merits and issue an opinion on whether going-forward employers will be required to post or not.

For clarification, this Court's injunction does not affect the obligation of federal contractors and subcontractors to comply with Executive Order 13496, which requires that certain federal contractors notify employees of organizing rights.

**Date:**

Tuesdays
June 5 & 12, 2012

Time:

8:00 am—12:00 pm

Location:

ERA Cincinnati Office
1200 Edison Drive
Cincinnati, OH 45216

PHR/SPHR/GPHR

Recertification Credits: 8

CPEs: 0.8

Member Fee: \$210.00

***Non-member Fee:**
\$295.00

Member Discount

Register three or more people at least 14 business days prior to the program to qualify for a 5% Group Discount

*Pre-payment is required for non-members.

To register, e-mail
training@hrxperts.org
or call 513.679.4120



The Art of Negotiation: Strategies for Success

Any dealing with another individual is a negotiation. The ability to negotiate successful win/win outcomes is a critical business skill. We negotiate with vendors, suppliers, team members, and even our bosses to establish goals, to gain access to resources and to help each other. This course explores all the facets of successful negotiations.

Learning Objectives:

- Utilize common negotiation tactics to gain advantage
- Utilize counter-tactics to “defend” yourself and your position
- Influence others without having to resort to authority or threat
- Use time to your advantage
- Gather information that is useful and relevant to the negotiation
- Factor in and read the negotiation style of others and use that to your advantage
- Master “meta-messages”, understanding body language and “hidden” meanings in speech.

About your instructor...

Jerry Yingling, PHR, Learning and Development Consultant, leads this program. Jerry shares his knowledge and experience from a wide range of industries with participants.



Jerry Yingling, B.S. Ed.

CANCELLATION POLICY:

Substitutions may be made at any time prior to the first class session. No -shows or cancellations in writing within 2 full business days will be charged.



Date:
Thursday
June 7, 2012

Time:
8:30 am—3:00 pm
Lunch is included

Location:
ERA Columbus Office
300 East Broad Street
Columbus, OH 43215

CEUs: 0.6

CPEs: 6 Management

PHR/SPHR/GPHR
Recertification Credits: 5.5

Member Fee: \$155.00

***Non-member Fee:** \$215.00

Member Discount
Register three or more people
at least 14 business days prior
to the program to qualify for a
5% Group Discount

*Pre-payment is required for
non-members.

To register, e-mail
training@hrxperts.org
or call 614.538.9410



Delivering Employee Performance Appraisals & Feedback

Performance management is a critical and often mishandled process. All too often, the performance appraisal turns into an annual bureaucratic exercise loathed by manager and employee alike. This skill-building workshop is designed to assist managers, supervisors and HR in the effective development and delivery of the performance appraisal as a powerful performance management tool.

Learning Objectives:

- Recognize why performance appraisals are so important.
- Determine what to document and what not to document.
- Follow a 10-step process to develop the appraisal.
- Avoid common rating errors that can "contaminate" the appraisal.
- Master the 6-step delivery of the appraisal.
- Prepare in advance for employee reactions and concerns.
- Practice coaching throughout the evaluation cycle.

About your instructor...

Jessica Coleman, Associate Instructor, leads this informative and valuable program.

Jessica holds a B.A from Asbury College, and a M.A. in Training and Organizational Development from Ball State University. She also serves as adjunct faculty at Columbus State Community College in the Department of Communications, and is a member of HRACO and Columbus Young Professionals.



Jessica Coleman

CANCELLATION POLICY:

Substitutions may be made at any time prior to the first class session. No -shows or cancellations in writing within 2 full business days will be charged.



*These companies
have recently
joined ERA:*

Thank You!

New Members

Barnes Aerospace is located in West Chester, Ohio. Mr. Dan Rupert is the HR Manager.

Berninger Maddox Inc. is located in Cincinnati, Ohio. Mr. Paul Maddox is the President.

Cowans Auction, Inc. is located in Cincinnati, Ohio. Mr. C. Wesley Cowan is the President and CEO.

Four Entertainment Group is located in Cincinnati, Ohio. Mr. Bob Deck is the CEO.

Ohio Valley Flooring is located in Cincinnati, Ohio. Ms. Gloria Wrenn is the HR Director.

Innovative Technologies Corporation (ITC) is located in Dayton, Ohio. Mr. Ramesh Mehan is the President and CEO.

Interplastic Corp. is located in Ft. Wright, Kentucky. Mr. Ed Sulick is the Plant Manager.

Maca Plastics is located in Winchester, Ohio. Ms. Melinda Culbertson is the President.

Pixels & Dots, LLC is located in Cincinnati, Ohio. Ms. Angela Davis is the President and CEO.

S & G Manufacturing Group is located in Hilliard, Ohio. Mr. Brett Klisares is the President.

Suncoke Energy is located in Middletown, Ohio. Ms. Paula Polyak is the HR Manager.

Menchie's Frozen Yogurt is located in Dublin, Ohio. Ms. Sandra Leess is the Owner.

N Services, Inc. is located in Cincinnati, Ohio. Mr. V. Michael Chernov is the Vice President.

OKI Furniture Fair, Inc. is located in Fairfield, Ohio. Mr. Richard Daniels is the President.

Universal Trailer Corporation is located in Cincinnati, Ohio. Mr. Terry Carlson is the CEO.

VIP Petcare Services is located in Valley View, Ohio. Ms. Karen Alary is the HR Consultant.

Vigour LLC is located in Cincinnati, Ohio. Mr. David Bradley Bobbitt is the Owner.



Welcome, new

members to ERA!

Thank you for

your membership!

Member Highlights

Menchie's Frozen Yogurt



Menchie's makes guests smile by serving an unlimited mix of yogurt and toppings at a unique self-serve station with more than 100 rotating yogurt flavors from cake batter and pomegranate tart to chocolate silk and vanilla snow, and more than 70 rotating toppings including fresh fruits, granolas, nuts and assortment of candies and hot fudges. Menchie's uses the highest quality frozen yogurt at all of its locations globally, made exclusively through its own private label. The Menchie's in Dublin, Ohio was the first one in the state and has been open since April 2010.

SunCoke Energy



SunCoke Energy is the largest independent producer of metallurgical coke in America, with about 50 years of experience supplying coke to the integrated steel industry. Their advanced heat recovery coke making process produces high quality coke for use in steelmaking, captures waste heat for derivative energy resale and meets or exceeds environmental standards.

Innovative Technologies Corporation



ITC has been a trusted provider of professional services and high technology solutions to the Department of Defense for more than 24 years. ITC is a financially secure privately-owned small business. ITC was named to the "Top 20 Small" list by the Dayton Daily News, a list of best places to work in the Dayton Metro Area. ITC was recently awarded a contract on the Acquisition of Consolidated Enterprises Support Services (ACCESS) at Wright Patterson AFB.

S & G Manufacturing Group



S & G Manufacturing Group was founded in 1990. They are a manufacturer of high quality stainless steel restaurant equipment and high quality custom wood fabricated items. They serve the restaurant,

Safety Spotlight



BWC

10-Step Business Plan For Safety

The Ohio Bureau of Workers' Compensation (BWC) developed a 10-Step Business Plan for Safety with the goal of helping employers develop a culture where all members of the organization actively manage workplace safety and health.

- Successfully managing inherent hazards pertaining to a company requires all staff members to understand the value placed on safety and health by the organization's leadership, understand their individual performance responsibilities and continue to acquire knowledge in safety and health.

Employers that integrate the 10-Step Business Plan for Safety into the way they conduct business develop a new safety culture and identify safety as a core organizational value.

Organizations implementing the 10-Step Business Plan for Safety may expect the following results:

- Increased economic value for the organization
- Reduced workers' compensation costs
- Increased safety awareness
- Increased employee ownership for success
- Enhanced communication and trust
- Lasting change in the culture

The 10-Step Business Plan for Safety is an integral part of the following BWC alternative rating plans:

- Drug-Free Workplace Program (DFWP)
- Drug-Free EZ Program (DF-EZ)
- Individual-Retrospective-Rating Plan
- EM Capping

The 10 steps of the program include:

1. Visible, active senior management leadership
2. Employee involvement and recognition
3. Medical treatment and return to work practices
4. Communication
5. Timely notification of claims
6. Safety and health process coordination and employer education
7. Written orientation and training plan
8. Written and communicated safe work practices
9. Written safety and health policy
10. Recordkeeping and data analysis

For more information about the BWC 10-Step Business Plan for Safety, please click [here](#).

More Poster News

No sooner do we get a court-ordered hold on the NLRB poster mandate, along comes another new poster. The DOL Wage & Hour Division has issued a new poster covering the Polygraph Protection Act. However, they explain on their website that the old poster (June 2003) is still valid and employers may continue to post them. For that reason and considering that the NLRB poster may still happen this fall, ERA is electing to continue to provide the current federal combination poster. If and when the NLRB poster is finally struck down or adopted, we will review our federal poster and make them available. If you have questions, please call the Hotline, 888.237.9554.

ERA Special Events

Legal Breakfast Briefing

Cincinnati

"Defending Your Company's Interests in Unemployment Compensation Claims: Strategies to Successfully Present Your Position"

Jeffrey Shoskin

Frost Brown Todd, LLC

Tuesday, June 19

8:30 am-9:30 am

Member Fee: \$25.00

Non-Member Fee: \$35.00

Columbus Training

Leadership Skills for Group Leaders will take place on Wednesdays, June 6, 13 & 20, 8:30 am - 4:00 pm

Delivering Performance Appraisals and Feedback will take place on Thursday, June 7, 8:30 am — 3:00 pm

Cincinnati Training

Leadership Skills for Group Leaders I will take place on Tuesdays, June 5 & 12, 8:15 am — 3:45 pm

The Art of Negotiation: Strategies for Success will take place on Tuesdays, June 5 & 12, 8:00 am — 12:00 pm

Wage and Hour Law Essentials will take place on Wednesday, June 13, 8:30 am — 11:30 am

Skill-Based Training Techniques will take place on Wednesday, June 13, 8:30 am — 4:00 pm

Workplace Harassment Non-managerial staff will take place on Thursday, June 14, 9:00 am—12:00 pm

Situational Leadership will take place on Tuesday, June 19, 8:15 am—12:15 pm

To register for classes, e-mail training@hrxperts.org or

(Continued from Page 2)

Companies with a strong employer brand create a "best places to work" environment, and should monitor social media & employee criticism sites like (glassdoor.com and jobitorial.com), and take a proactive approach on social media sites. They continually evaluate their workplace benefit offerings and effectively communicate a strong value proposition to current and more prospective employees in how the organization differentiates itself from other employers, & in particular their competition.

Trend #5: Use of Technology

It used to be that key employee notices were posted on break-room bulletin boards and that was good enough. Although most employers now use more sophisticated technology such as company intranets and employee portals, there is a shift to a more diverse & mobile platform.

Employees now manage every aspect of their professional and personal life digitally via mobile devices and have every expectation that their employers will keep up.

By 2014, there will be 1.7 billion smart phone users and leading organizations now proactively embrace a unified approach to employee communications through multiple platforms including smart devices (both phones and tablets), text, web/video conference, and more. Talent Management leaders should invest into supporting talent management initiatives across mobile platforms.

Trend #6: Use of Workforce Analytics to Make Decisions

HR practitioners who can thoroughly understand and effectively articulate the operational impact and financial value of HR practices are the most successful in allocating capital and attaining buy-in. CEO's want data-savvy leaders in HR. Forward looking metrics that dominate other business functions like financial & supply chain are needed in HR now. Predictive metrics, like the likelihood of an employee to leave in next 6 months, are useful tools, and are being used by companies.

Technology now allows access to the data that facilitates operations to be fact-based and focused on higher returns on HR investments. Although the benefits include the ability to be proactive in making decisions in hiring, training, assignments & trend projections, a more strategic benefit is the ability to move from a reporting culture to an analytics culture.

Trend #7: Leveraging Diversity

The definition of Diversity has expanded. The modern workplace now includes multiple generations, new definitions of family, and is not necessarily limited to just the employees at an organization. Vendors, affiliates, channel partners, and other third parties influence a company's outlook, too. Efforts to do business with other organizations who represent and promote diversity can have some of the same benefits that internal diversity delivers. There are changing needs of men, for example, where 3 out of 4 married men now live in dual-career households. Men in dual-career-dual caregiver households cite more conflict than women do now.

So ask yourself, is your company a trend setter, or a trend follower or trend 'averse'? In any circumstance, you should adapt your HR initiatives to your business needs & ensure alignment with your overall company strategies.

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Salaried Does Not Mean Exempt from the FLSA



Dawn Hays, Esq.
HR Learning & Development
Consultant

Paying an employee on a salary basis does not automatically mean an employer does not have to pay them overtime for hours worked in excess of forty hours per week under the Fair Labor Standards Act (FLSA). Many employers and employees alike believe that salaried employees are exempt employees. But this can be a costly mistake for employers, and it is a mistake that is commonly made.

Most employees are entitled to be paid overtime (1.5 times the regular hourly rate) for any hours worked over 40 per week. Some employees are exempt, but not nearly as many as most employers and employees believe. For example, to be exempt, the employer must pay the employee a salary of \$455 a week or more. In other words, if an employee is paid a salary of less than \$23,600 annually, the employee is not exempt and will never be exempt, regardless of whether the employee is salaried.

But even if the employer pays the employee the required salary amount, the employee still is not automatically exempt. The Department of Labor then analyzes whether the employee is paid on a "salary basis."

If an employer docks an employee's pay because work is slow or because the employee misses part of the work day, the employee is not paid on a salary basis and is therefore not exempt (unless of course the missed work hours are deducted from the employee's leave bank or PTO).

But even if an employee is paid the required salary amount and no improper deductions are made, the employee still is entitled to overtime unless the employee has exempt job duties. And whether or not the employee performs duties that would qualify for the executive, administrative or professional exemptions is a lengthy and convoluted analysis that is beyond the scope of this article. Suffice it to say, however, that even if an employer pays a receptionist a set salary, the receptionist is still entitled to overtime pay for any hours worked in excess of 40 per week.

The point is this -- just because an employee is paid a salary does not mean an employee is exempt. Employers should be aware of this common mistake, because more and more employees are. As employees become more aware, they are seizing the opportunity to file claims for unpaid overtime. Sometimes employees seek unpaid overtime through an attorney, which means paying attorney's fees too. And that's why it can be a costly mistake.

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MONICA ZOERNER

ERA Staff on the Move



Tammy Bennett, Esq.

ERA is pleased to announce the hiring of Tammy Bennett as our new Association Counsel & Director of Compliance Services.

Tammy brings over 10 years of experience to ERA, most recently with Macy's as Employment Counsel, where she provided analysis and counsel on employment issues; conducted employment audits; drafted, reviewed, and negotiated HR related contracts; and trained HR managers.

Prior to Macy's, she was an Employment Associate with Vorys, Sater, Seymour & Pease.

Tammy serves on the board of SWEL (Summer Work Experience in Law) and volunteers her time with the Urban League, where she formerly served as a board member. In addition, Tammy has worked as a volunteer at Hope for You, and Working in Neighborhoods.

Tammy attained her JD at the University of Cincinnati College of Law. She will be working to get to know as many of you as possible through hotline calls, legal updates, roundtables and trainings.

Please feel free to contact Tammy at tbennett@hrxperts.org.



Patti Grogan

ERA is also pleased to announce the promotion of Patti Grogan from Training Assistant to Training Coordinator.

Patti joined ERA in 2009 as our receptionist where she spent nearly 1½ years. She moved to the educational services department and served as the Training Assistant for approximately the same period. She moves into the role of Training Coordinator to replace Brandi Helton, who moved into a new role in HR Consulting services.

Both Patti and Brandi are true ERA success stories and proves that ERA attracts, trains, retains, and rewards its employees.

Please feel free to contact Patti at pgrogan@hrxperts.org.

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Toll free: 888.237.9554

www.hrxperts.org

Do you need more information about a service or program offered by ERA?

Would you like to talk to one of our experts in a particular speciality?

Here's a list of some of our most popular services, and the main contact person for each of them.

In Cincinnati, please call: 513.679.4120 | In Columbus, please call: 614.538.9410

The Buckeye Institute for Public Policy

	Cincinnati	Columbus
Hotline	Dan Chaney	Lori Hall / Barb England
Administration and Posters	April Risen	April Risen
Compensation Services	Terry Henley	Terry Henley
Affirmative Action Plans	Carol Reubel	Lori Hall
HR On-Demand Services	Carol Reubel	Lori Hall
360's	Carol Reubel	Lori Hall
Training & Development	Ralph Neal	Dawn Hays
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Custom Surveys	Douglas C. Matthews	Douglas C. Matthews
Membership	Jim Carter Peter Landesman	Monica Zoerner Peter Landesman

Register For Training Today! See Page 9 For Upcoming Classes.