

THE INTERVIEW

Chapter 090



The Official Monthly Publication of CAHRA

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Conflictology 101: Successful Conflict Resolution

Deborah Stallings
HR ANEW

Conflict is a fact of life in business, and resolving conflict successfully is essential to keeping everyone focused on an employer's mission and business goals. Recognizing these differences, and establishing boundaries, helps us to refocus and realize that to solve any problem, we first need understanding. Because we are multi-dimensional, it is not likely we'll be successful in life without having a few conflicts with others.

Today's workforce reflects diversity in ways that many have never experienced before. It includes four generations with unique attributes. The number of women and minorities in leadership is on the rise. More employees are sharing their religious and political beliefs.

Challenges and opportunities increase as baby boomers continue to age.

This presentation helps participants recognize how conflict begins and methods to minimize and resolve conflict. It will also provide strategies to promote respect, strengthen communication and collaboration, and enhance employee morale and increase productivity.

To Make a Reservation:

Email info@cahra.info or call (501) 244-2472

By 5 pm July 8th

Union Station's - Next Level Events Genesis III Room

1400 West Markham - Little Rock, AR 72201

AGENDA July 10, 2008

LUNCHEON SCHEDULE

11:15	Registration
11:30	Lunch
12:00	Program
1:00	Adjourn



LUNCHEON FEES

Members	\$15	Without Reservation	\$17
Non-members/Guests	\$17		

VISA and MasterCard Welcome



CENTRAL ARKANSAS HUMAN RESOURCES ASSOCIATION

2008 Executive Board



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2008 Calendar of Events

- | | |
|---|---|
| July 10 | Conflictology 101
Deborah Stallings, PHR |
|  | |
| August 14 | Diversity Seminar |
| Sept. 11 | How to Be an Effective Witness
Dan Herrington, J.D. |
|  | |
| Oct. 8-9 | ARSHRM - Employment Law & Legislative Affairs Conference
Peabody, Little Rock |
| Oct. 16 | Legislative Update |
| Nov. 14 | Honors Event
24 Carat Character
Tjuana Byrd, J.D.
Crowne Plaza |
| Dec. 11 | Holiday Luncheon |

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The INTERVIEW is published by the Central Arkansas Human Resources Association, a Chapter of the Society for Human Resources Management, for its members. Any information or correspondence for this publication should be directed to:

CAHRA
info@cahra.info

Message From the President



While meeting with our HR Director recently, I realized that as in-house counsel for an organization, I approach HR topics in a different manner than some attorneys might approach the same issues. When I stop to ponder the reasons for this difference, I realize it is because I started in HR (well, technically the mail room with English Degree in-hand and, thankfully, a supervisor with a passion for career development). **When our HR Director speaks,...I LISTEN.** Her opinion is of the greatest importance to me because I know her review is thorough, she consciously strives to consider circumstances and options without bias, and she always has the best interest of the company, as well as employees, in mind.

Perhaps as a result of having started my career surrounded by estimable HR Professionals, I have the "insider's" understanding of the benefits and insight a dedicated HR Professional brings to the table.

From the position of managing risk and addressing internal conflicts and complaints, an HR Professional's assistance cannot be overvalued. I think as HR Professionals, we often discount our contribution to our organizations instead of confidently asserting our positions. Just out of curiosity, how many times have you correctly predicted the outcome of a dispute? How many times have you guided experienced managers in how to engage in basic communication with their employees? How many times have you seen a train wreck coming and put down the warning lights? HR Professionals are notoriously underestimating their strategic value to organizations without even realizing it. Not to toot our own horns, but HR Professionals have amazingly good investigative and analytical skills which, when employed, contribute great value to their organization in both the short and long terms.

We are not, however, without the need to continue to hone our skills -- especially in the area of conflict and employee complaints. Addressing conflict is always a challenging process, even when you are not directly involved in the dispute and working only to facilitate resolution. There is a certain awkwardness or lack of comfort we have with engaging in this process and standing firm to resolve the issue. July's meeting, "Conflictology", should provide us with the opportunity to improve these skills and learn new ways to deal with conflict. I encourage you to attend July's program, as it is certain to be of benefit to you as an HR Professional.

- Andrea

Andrea Woods, J.D., PHR
President, CAHRA

Thank you to our meeting sponsor:



About Our Speaker

Deborah Stallings, PHR, is Founder and President/Chief Executive Officer of HR Anew. This company provides live and e-Learning programs in the areas of conflict management, equal employment opportunity (EEO), affirmative action, diversity and inclusion, management and leadership, team building, recruitment and hiring, fair labor standards, workforce development, career planning, performance management, oral communications, writing, wills and estate planning, and workforce enrichment to name a few. Other services include recruitment and hiring, alcohol and drug testing administration, background investigations, reference checks, compensation and benefit administration surveys and administration, unemployment claims management, and behavioral assessments.

She has over eighteen of years experience in providing human resource management services including consulting to both government and private industry clients. Her consulting expertise includes facilitating training, curriculum design, diversity recruitment and retention strategies, compensation and benefit design and administration, executive search, career fair coordination, employment advertisement strategy and design, employee/labor relations, Internet recruitment, career counseling, outplacement services, employee surveys, exit interviews, sourcing, and more.

She is certified as a Professional in Human Resource (PHR) by the national Human Resources Certification Institute (HRCI).

Deborah is a Director of the NAWBO National Board; Board Member, Associated Black Charities; Trustee, Lincoln Technical Institute; Founder and Past President, Howard County Human Resources Society (HoCoHRS); Board Member, Howard County Chamber of Commerce; Immediate Past President, NAWBO-Baltimore; Chair, Howard County Government Personnel Board; and Member, Society for Human Resource Management (SHRM).

She is completing her Bachelor of Arts degree in Communication and Information Management at the College of Notre Dame of Maryland.

Nominating Committee Selected & Nominations Requested

The Nominating Committee has been selected to choose candidates for the 2009 CAHRA Board:

- Kelly DeStefano, SPHR, Past-President and Nominating Committee Chair
- Tim McKenna, SPHR, Board Member
- Judy Hornibrook, Member At-Large
- Kathleen Mccomber, Member At-Large
- Cindy Wright, Member At-Large

Openings include:

OFFICERS:

President-Elect _____

V.P. Programs _____

V. P. Membership _____

V. P. Administration _____

Two Board Members (Elected positions for three (3) year term.)

Self-nomination is encouraged and members in current positions may be suggested for other positions.

E-mail your response to:
info@CAHRA.info
OR

Fax to 244-2333
OR

Mail to:
CAHRA
Attn: Nominating Committee
P. O. Box 251824
Little Rock, AR 72225

By
August 15, 2008

Welcome New Members

The following members were approved at the June Board meeting.

Valerie Camp

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CAHRA Professional

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SHRM Professional

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SHRM Professional

Jann Ramirez

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SHRM Professional

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helen.ticey@arkansas.gov
SHRM Professional

Try a Different Recruiting Strategy

By Yvette Lee

In order to be successful at partnering with a local college, an employer must be willing to devote time, energy and resources. The more the students know about the company, the more interested the students will be in the employer. Employers that are innovative with creating visibility on college campuses are often more successful with finding individuals with desired skill sets.

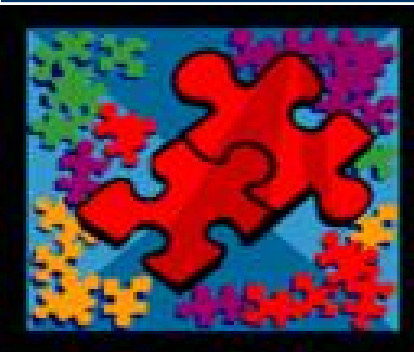
Start the partnering process by focusing on the schools that closely fit the needs of your company. For instance, if you are an engineering company, focus on schools with strong engineering programs. Contact the school/college career services department and schedule a time to talk with staff about recruiting on campus.

When you meet with the career services representative, ask about the programs in place for employers to use. Discuss your company goals with the representative and try to determine the best way to achieve those goals. Inquire about the success stories of other employers on that campus. Be willing to explore opportunities outside of the traditional career fair. For example, explore internships, co-op programs, presentations at student club meetings, scholarships for students, class presentations, sponsoring school events and hosting workshops on resume writing/interviewing techniques. Find innovative ways for the students to see that your company is really interested in them and why they would want to work for you.

Once you have explored the opportunities for outreach on campus, decide which outreach efforts will give your employer the most visibility. Come up with a plan/timetable and discuss it with the school/college career services representative. Remember that once you have set up a plan of action, commit to it. Students want to see execution and follow-up. After each semester or school year, evaluate the outreach efforts and be willing to revamp the plan as needed. You want to have a consistent plan for maintaining contact with the school and students. Again, visibility is key.

In summary, developing a partnership with local colleges will take time, energy, resources and creativity. Exploring all opportunities to increase your company's visibility will allow the students to see what the company has to offer and will also allow the company to see what the students have to offer.

Additional resources on recruiting strategies can be found in SHRM'S Staffing Management Focus Area..



Lets Talk Diversity!

Thursday, August 14, 2008

Next Level Events

Genesis 3

11:00 a.m. - 3:30 p.m.

AGENDA

10:30	Registration
11:00 - 12:00	10 Challenges (Eric Peterson)
12:00 - 12:45	Lunch and Networking
12:45 - 1:45	Leading Your Hispanic Workforce (Maura Lozano-Yancy)
1:45 - 2:00	BREAK
2:00 - 3:00	What drives Gen-X and Gen-Y? (Marcia Cook)

Registration: Members & Guests with Reservations \$30 Without Reservation \$45

VISA and MasterCard Welcome

10 CHALLENGES THAT *SHOULD* KEEP HR AND DIVERSITY PROFESSIONALS UP AT NIGHT

Participants will leave this session with new strategies and new ideas for engaging senior leadership and building a strategic business case for diversity and inclusion. Other areas include establishing a pipeline of leadership capability, linking HR/Diversity and globalization strategies to business objectives, and addressing emerging issues such as healthcare, immigration, and religion/spirituality.



Eric Peterson, SHRM Manager of Diversity and Inclusion works directly with the Director of Diversity and Inclusion Initiatives to position SHRM as a leader in the diversity management and inclusion field. He acts as a thought leader, champion, and project lead in the design and implementation of innovative diversity strategies. Additionally, Eric will work with SHRM Staff to effectively respond to member inquiries regarding the SHRM Diversity Initiative; manage selected partnerships and alliances established by SHRM; and represent SHRM in interactions with external diversity-related organizations.

Eric has 10 years of experience in Diversity Climate & Culture Programming, Diversity Education, Learning Strategies, and Organization Development. He has worked extensively as a Diversity Educator and Practitioner. He holds a Bachelor's Degree in Theatre Arts from Gonzaga University and a Master's Degree in Organization Development from American University.

Eric comes to SHRM from a 15-year career at Booz Allen Hamilton, where he held such positions as Diversity Learning Manager, Diversity Climate & Culture Manager, and Training & Development Specialist.

Eric is the recipient of Booz Allen's prestigious Diversity Award, the Brotherhood/Sisterhood Award from the National Conference for Community & Justice, and the Volunteer of the Year Award from the Metro DC chapter of Parents, Family, and Friends of Lesbians & Gays (PFLAG).



Lets Talk Diversity!

LEADING YOUR HISPANIC WORKFORCE

The workforce demographics are changing rapidly. During this session, you will receive latest statistics on the Hispanic workforce in Arkansas and be given some practical tips to assist you with tapping into the full value of your Hispanic workforce.



Maura Lozano-Yancy is the founder of *¡Hola! Arkansas*, the state's first and premier bilingual Spanish-English newspaper, established in October 2000. *¡Hola! Arkansas* the initial publishing property of ¡Hola! Arkansas Hispanic Media & Publishing Co., LLC continues to be the market leader in Hispanic publishing in the state. She is nationally recognized for her partnership-building abilities, entrepreneurship skills and community advocacy initiatives. She is an accomplished bi-cultural professional specializing in cross-cultural development, international relations and business communication.

Maura holds a Degree in Business Administration with a Major in Economics and an Emphasis in International Business from the University of Southern Mississippi. She is affiliated with and has served on the Board for numerous community groups including: Dress for Success, Riverfest, LULAC (League of the United Latin American Citizens, North Little Rock), Arkansas Minority Business Development Roundtable-AMBD and Governor Mike Huckabee's State Advisory Board on Hispanic

WHAT DRIVES OUR GEN-X and GEN-Y WORKFORCE?

During this dynamic session, you will learn about some of the pervasive myths about these generations and how these employees can offer value to your organizations - just because their value is different from ours.



Marcia Cook is owner of Pinnacle Performance Solutions, a business-improvement consulting firm. She is a former Quality/Compliance Manager for Aventis Pharmaceuticals. She is an expert in facilitating communications, interpersonal skills, and negotiating for all levels of management and leadership.

She graduated from the University of Arkansas at Little Rock with a B.A. in Psychology and studied in the Health Services Administration Graduate Program.

Marcia is a member of the North Little Rock Chamber of Commerce, and is a board member on the Sherwood Chamber, Keep Sherwood Beautiful Committee, Sherwood Rotary Club, and the Arkansas Chapter of Sales and Marketing Executives International. She is Area Director of Business Network International/Arkansas and is a member of the

Little Rock Air Force Base Community Council. She is a Certified Quality/Organizational Excellence Manager, Certified Professional Behavioral Analyst and Certified Business Coach.

Let's Celebrate Diversity!

by
Paulette Lawson

America has never before experienced such cultural diversity among our population, and in the workplace, as we do today. We're expecting many ground breaking events related to diversity. Many would have never thought that America would have an African American male as the Democratic nominee for President, that our fastest growing ethnic population would be Hispanic, that women would out number men in the workforce, or that there would be more older workers than younger, in the workforce. Thankfully, we have far more disabled workers in the workforce than we did before the Americans with Disabilities Act. Yes, I would say that we're a pretty diverse country.

Is there division amongst these diverse groups? If so, why? Do we really have a generational gap between the more mature workers and the younger workers? Are there some groups that feel their jobs are being taken over by another group? Are men threatened by more women entering the workforce? From my perspective, these are rhetorical questions but, I think we do need to put our sensitivity thermometers to test periodically. One way we can do this by asking ourselves this question: Do I build up or do I tear down others?

Do we concentrate on how others are different from us, or do we focus on our commonalities? How can we encourage and help one another in an obviously changing society? We should focus on the similarities we have with others and not the differences. Diversity in the workplace adds a special richness, and also special

NATION'S CHANGING MAKEUP

How components of the U.S. population are projected to change by 2050:

Racial/ethnic groups	2005	2050
Foreign-born	12%	19%
White*	67%	47%
Hispanic	14%	29%
Black*	13%	13%
Asian	5%	9%

If we focus on our differences, how will we survive? I don't see our population going back to the way it was in 1980, or even 1990 for that matter. Perhaps we should considering concentrating on our similarities, as opposed to our differences. Emphasis should be on appreciating the diverse skills, talents, and contributions of individuals. Our similarities are far greater than our differences. The stats above list only our ethnic makeup. We have so many other similarities to celebrate. The next time you sit next to a co-worker that's different from you begin to ask them questions about his or her life. You'll find that you have more things in common than you think.

Let's celebrate diversity!

PREPARATION PROGRAM FOR HUMAN RESOURCE PROFESSIONALS SEEKING 2008 PHR/SPHR CERTIFICATION

The Arkansas SHRM State Council is pleased to announce
our fall web-based
preparation program for Arkansas HR professionals
seeking certification during the
December 08/January 09
Testing window

Participate in training sessions from any computer with Internet access, engage the presenter with questions and follow up.

Sessions are scheduled from 8 am to 12 noon. Online review of previous sessions may be possible on a limited basis.

Module	Date
<i>Strategic Management</i>	10/04/2008
<i>Workforce Planning</i>	10/11/2008
<i>Human Resource Development</i>	10/18/2008
<i>Total Rewards</i>	10/25/08
<i>Employment/Labor Relations</i>	11/01/2008
<i>Risk Management</i>	11/08/2008
<i>Review</i>	11/15/08

NOTE: \$493 fee covers cost of study guide documents (\$425) plus shipment (\$18) plus study group costs (\$50). Space is limited (22 spaces for participants), so register early! Participants who provide proof of purchase for a SHRM Learning System may have their fee reduced to \$50. Proof of purchase must be faxed to Beverly D. Petty, SPHR, at (866) 215-5622 – see below. If you have any questions about this study group, please contact:

Beverly Petty at (870) 926-3038

or

beverlyp@cortec.consulting.com

**PAYMENT AND REGISTRATION MUST BE RECEIVED NO LATER
THAN FRIDAY, SEPTEMBER 12 TO ENSURE YOUR PLACE IN THIS
FALL'S STUDY GROUP!**

See Registration Form on Page 10

REGISTRATION FORM - ARSHRM ON-LINE STUDY GROUP

Name: _____

Street Address: _____

City: State: Zip Code: _____

E-mail address: _____

Phone: _____

List the name of your ARSHRM Chapter: _____

_____ I already purchased my SHRM Learning System (fax proof of purchase to Beverly D. Petty, SPHR,
at (866) 215-5622).

Participant Agreement:

I understand that this study group is being provided within the guidelines of SHRM and within the purchase agreement for the SHRM Learning System. I understand that the study group material is copyrighted and that I am prohibited from sharing my SHRM Learning System materials with anyone else at any time. Materials covered by this agreement include the modules, study guides, cd and its contents, slides, tests, and test answers provided to me as a participant in this study group. I also agree that I am prohibited from sharing any webcast invitations and access codes to the online study group sessions. I agree to participate in the ARSHRM on-line study group within the guidelines referenced by this agreement and understand that these guidelines continue to apply to me after the study group sessions' conclusion.

Signature_____
Date

FAX your completed form to ATTN: Beverly D Petty, SPHR, (866) 215-5622.

*Mail original form and check made out to:

"ARSHRM"
ATTN: Kelly DeStefano, SPHR
c/o Youth Home, Inc
20400 Colonel Glenn Road
Little Rock, AR 72210

*You will receive an email confirmation that you are registered. You will receive a second confirmation when your payment is received. If you do not receive these confirmations, please check on their status.

Legally Speaking....

Retaliation Trifecta Can Equal Big Losses for Employers

By Dan Herrington, J.D.
Friday, Eldredge & Clark

Retaliation against employees who oppose real or perceived discrimination has long been a focus of the EEOC. The Commission aggressively investigates such charges because it believes retaliation undermines employees' willingness to complain or participate in investigations, thus undermining the process as a whole.

On the other hand, some believe that employees engage in "pre-retaliation." This not-yet-a-word means the employee complains about discrimination as a preemptive strike when he becomes aware of impending discipline or discharge. For example, supervisor places employee on a performance improvement plan. Employee complains to human resources that she is placed on the plan because of age discrimination. Employee subsequently fails to improve and is discharged. Employee claims retaliation. *Haas v. Kelley Services*, 409 F.3d 1030 (8th Cir. 2005). There the Eighth Circuit affirmed summary judgment to the employer on the underlying discrimination claim, but reversed on the retaliation claim, paving the way for that claim to proceed to a jury. The dissent explained that the fact that discharge follows the complaint should never be enough to infer retaliation, otherwise "a substandard employee on the verge of termination for poor performance could effectively inhibit a well-deserved discharge merely by filing a discrimination complaint." *Id.* at 1038. He is correct.

Three recent cases make "pre-retaliation" more likely. First, in *Burlington Northern and Santa Fe Railway Co. v. White*, 126 S.Ct. 2405 (2006), the Supreme Court ruled that an employee stated a claim for retaliation even if she had not suffered an "ultimate employment decision." *Id.* at 2414. The Court rejected the standard utilized by many courts that required the employee suffer some tangible employment action such as discharge. The Court held that the employee must simply demonstrate "an adverse employment action" resulting in a "materially adverse change in the terms and conditions of employment." *Id.* at 2415. The Court explained that a "materially adverse change" is one that dissuades a reasonable worker from making or supporting a charge of discrimination. *Id.* Thus, in one context,

changing a work schedule slightly may be only inconvenient, but if it matters significantly to the complaining employee, then it could constitute an adverse employment action. As the concurrence pointed out, the case does nothing to clarify when a job action will be sufficient to support a claim of retaliation and when it will not. *Id.* at 2421.

Second, the Sixth Circuit held that an employee who alleged he was fired because his fiancé filed a discrimination charge against their common employer stated a claim for retaliation. *Thompson v. North American Stainless, LP*, 520 F.3d 644 (6th Cir. 2008). The court rejected a literal reading of the statute (contrary to the reasoning of *Burlington*) and held that such a reading, which appeared to limit retaliation claims only to the individual who complained, would "defeat the plain purpose" of Title VII. *Id.* at 647. Then, applying *Burlington*, the court said that terminating a family member after an employee files an EEOC charge would "dissuade reasonable workers from such action." *Id.* Finally, the court concluded that it had great concern a contrary ruling would permit employers to "retaliate with impunity for opposition to unlawful practices . . . as long as that retaliation is only directed at family members and friends..." *Id.* at 650. The dissent pointed out that the Eighth Circuit (covering appeals from Arkansas federal courts) rejected a similar argument in *Smith v. Riceland Foods, Inc.*, 151 F.3d 813 (8th Cir. 1998). In light of *Burlington* and *Thompson*, however, the Eighth Circuit may change course and allow such claims.

Finally, in a 7-to-2 opinion, the Supreme Court ruled that individuals may bring retaliation claims based on complaints of race discrimination under 42 U.S.C. § 1981. *CBOCS West, Inc. v. Humphries*, 128 S.Ct. 1951 (2008). This case is important because § 1981 has a much longer statute of limitations than Title VII. Also, a plaintiff does not have to file an EEOC charge prior to filing suit. Finally, §1981 does not cap compensatory and punitive damages. All these cases will likely conspire to increase the number of retaliation claims. Employers must continue to follow their own policies regarding progressive discipline and ensure that consistent and complete documentation supports discharge decisions.

Working Green

Several articles in this month's HR Magazine focused on "Working Green." The first article discussed Corporate Social Responsibility, including ways companies can be more environmentally friendly and other ways they help the community in which they are located. The second article mentioned how some companies are creating Chief Sustainability officers (SO) and the responsibilities and requirements for someone in that position. The third article covered communication strategies and how to get the word out about your company's green initiatives.

Lin Little Blair, SPHR, an HR Project Leader for Arkansas Blue Cross and Blue Shield and a member of CAHRA, was quoted in the second article, "New Breed of Human Resource Leader." She also serves on SHRM's Corporate Social Responsibility and Sustainability Special Expertise Panel.

What is your role on the SHRM Corporate Social Responsibility and Sustainability Special Expertise Panel?

I am a panel member on SHRM's newest panel which was chartered in the fall of 2006. We meet "face to face" twice a year and have quarterly conference calls. We write white papers, conduct research and interviews, serve as SME's, and provide info to SHRM surveys. The panel has developed a chapter presentation that I hope will be part of our programs for 2009 considering the critical role plays in CSR and Sustainability.

How did you become interested in the SHRM Committee and how did you get a place on the panel?

I was a member of the SHRM HRD Committee before the committees were disbanded, and missed the interaction at the national level with other HR professionals. I am fortunate to work for a company that recognizes the benefit of volunteer service. I noticed the formation of the CSR panel and call for volunteers on the SHRM website and applied. I liked the idea of being on the "leading edge of a new initiative/focus."

What green initiatives are in place at your employer, ABCBS?

ABCBS has already replaced the light fixtures to LED. We've also put film on the windows and shades that allow in light but reflect/diffuse the sun. We recycle paper (we recycle tons and tons!) We have added new energy efficient heating and cooling systems in our large office buildings over the last two years. We are looking at others ways to be more "green" and are developing a "green" policy that encompasses vendors, facilities and tips to employees on how they can make a difference at home and work.

Do you know of any other local companies that have Sustainability Officers?

Not personally but we are fortunate to be surrounded by companies/organizations on the "cutting edge". Don't forget that sustainability encompasses how were recruit and retain employees; how well are they (ABCBS has an employee-valued wellness program; etc.) so HR is a key player/influencer.

What green initiatives do you know of at other companies throughout Central Arkansas?

The Heifer Project, Clinton Library, and Winrock have all received national recognition for their buildings and efforts. There are probably many more so we are fortunate to have these local resources to provide input. My hope is their reps will be a part of the presentation to the chapter.

Here are some tips on how employees can be more environmentally friendly, both at home and at work. Many of these tips were collected from the articles in this month's HR Magazine.

- Make double sided copies, or scan and email instead of making a copy and mailing at all
- Lower blinds in the summer
- Power down inactive computers
- Promote walking, biking, carpools and public transit
- Offer recycling programs for office produces, including plastic, glass, cans and Styrofoam (Many companies have employee committees to promote company outings and other morale
- events - the green initiative could be one of their mandates as well. They could be responsible for taking the recycled aluminum cans to the recycle places weekly or monthly so they don't pile up.)
- Always recycle used toner cartridges
- Sponsor community projects such as planting trees

Green continued on page 13

Green continued from page 10

- or fundraisers at nature preserves. Turn off the lights in the office when you leave for the day (also saves the company’s bottom line by saving money on utilities)
- Shred paper instead of trash so it can be recycled
- Videoconference and save money on travel expenses
- Communicate the benefits of living green, whether in a company newsletter or by having lunch and learn speakers
- Put a bike rack outside your building so employees have the option to ride their bike
- Put a picnic table outside so people can eat lunches outside and not have to drive anywhere

- Bring stainless steel cutlery from home instead of plastic

At Home:

- Use timers on lights
- Stereos and computers are always on, always using energy so power down when not in use
- Set the thermostat higher and run ceiling fans
- Eat locally produced produce, either from your neighbor’s garden or the Farmer’s Market
- Take cotton bags to the grocery to carry your purchases (there is one available on the SHRM website)

MEMBER ON THE MOVE

Tom Moore
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Track Your Points



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<u>Date</u>	<u>Topic</u>	<u>Points</u>
January 10	The HR Director's Role - Be Savvy, Be Strategic, Be Smart	1 Strategic
January 10	Post Session: Staff Engagement - Dream Big	2 Strategic
February 14	Speak Up...And Actually Be Heard!	1 General
March 13	Advocacy Required	1.5 General
April 10	A View From the Top, A CEO's Perspective	1 Strategic
May 8	How to Give and Receive Feedback with Skill	1 General
May 22	Supervisor's Conference	6.25 General
July 10	Conflictology 101	1 General

TOTAL POINTS: 15.75

FLSA Amended To Increase Penalties for Child Labor Violations

By Allen Smith



This summer employers will face new penalties when youth who are working in violation of the Fair Labor Standards Act (FLSA) are injured or die on the job.

In addition to prohibiting discrimination based on genetic information, the Genetic Information Nondiscrimination Act (GINA) amended the FLSA to provide that employers may be penalized up to \$50,000 for the death or serious injury of any employee under the age of 18 years. The penalty may be doubled if the violation is a repeated or willful violation.

In addition, GINA raised the maximum penalty for other violations of child labor rules from \$10,000 per worker to \$11,000 and increased the maximum civil penalty (which may be in addition to the ordered payment of unpaid wages and damages) for willful violation of minimum wage and overtime provisions of the FLSA from \$1,000 per violation to \$1,100.

Also, GINA added a definition of “serious injury” to the FLSA. Alexander Passantino, the U.S. Department of Labor (DOL) Acting Administrator for the Wage and Hour Division, told *SHRM Online* that this was the first time a definition of serious injury was provided in the statute.

“Serious injury” under the FLSA now means:

- Permanent loss or substantial impairment of one of the senses (sight, hearing, taste, smell, tactile sensation);
- Permanent loss or substantial impairment of the function of a bodily member, organ, or mental faculty, including the loss of all or part of an arm, leg, foot, hand or other body part; or
- Permanent paralysis or substantial impairment that causes loss of movement or mobility of an arm, leg, foot, hand or other body part.

The DOL is pleased that Congress raised the penalties for the violation of child labor laws, Passantino remarked. He noted that the DOL had proposed the increase “to act as a deterrent for dangerous conduct.”

The National Institute for Occupational Safety and Health (NIOSH) estimates that 157,000 youth sustain work-related injuries and illnesses each year, only a third of which result in emergency room treatment. Approximately 54 workers under 18 died on the job in 2007.

Passantino noted that most youth injuries on the job are not attributable to the violation of child labor laws. But as summer approaches, employers should re-familiarize themselves with the rules on youth employment, he said.

Restrictions on Youth Employment

Youth who are under the age of 14 generally are prohibited from non-agriculture work with certain exceptions such as for babysitters, newspaper deliverers and child actors (see **What Jobs Can Youth Do?**, DOL web site). For youth who are 14 or 15 years old, certain hours of work are restricted during school weeks. Passantino said these youth are limited to three hours of work on school days up to 18 hours a week during school weeks. These teens cannot work more than eight hours on non-school days and 40 hours in non-school weeks (see **What Hours Can Youth Work?**

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There aren't hour of work requirements for 16- and 17-year-olds, but Passantino said that the DOL has designated particular occupations as too hazardous for these teenagers to perform. These hazardous occupations include operating or unloading certain power-driven balers and compactors, roofing and operating power-driven meat processing machines (see **Youth Employment Provisions of the FLSA for Nonagricultural Occupations**, DOL fact sheet).

Driving on the job is not permitted for 16-year-olds but is permitted for 17-year-olds *only* to drive cars or small trucks during daylight for limited times and under strictly limited circumstances (see **Hazardous Occupations Order No. 2, Youth Employment Provisions and Driving Automobiles and Trucks Under the FLSA**, DOL fact sheet).

Many teens work outdoors during the summer, which places them at risk of sun stroke. A NIOSH brochure on its **Young Safety and Health page** reminds landscaping employers to take steps to avoid heat stress among their employees.

The new penalties for child labor violations were tacked on to the end of GINA, noted Cynthia Marcotte Stamer, an attorney with Glast, Phillips & Murray in Dallas. She told *SHRM Online* that the new penalties are "timely as we approach summer" but cautioned that there might also be penalties under federal and state Occupational Safety and Health Acts and state workers' compensation laws.

Dip in Youth Employment?

Stamer said that she is seeing fewer employers hire teens than 10 years ago. She attributes this decline to greater competition for seasonal employment and says that landscaping and hospitality jobs increasingly are being filled not only by recent immigrants but also by seniors seeking to return to the workforce.

Stamer has chatted over drinks with mothers and is hearing some of them say that their kids don't want to work, while others say that their teens have looked for work at restaurants but that no one is hiring them.

Patricia Mathews, MBA and president of HR consulting firm Workplace Solutions in St. Louis and a member of the SHRM Employee Relations Special Expertise Panel, said that lower employment of teens might be a trend in some parts of the country, but she isn't seeing it in the Midwest. Her clients include five McDonald's restaurants, which are hiring teens for the summer, as are a variety of tourist attractions in the St. Louis area, such as the Gateway Arch and riverboats on the Mississippi.

Extra Care

"Employers need to take a little extra care in terms of orientation" for teens, Mathews reminded. This includes not only basic safety but also customer service and sanitary issues.

Mathews said that, unfortunately, managers often just show newly hired teens to their work stations without anyone investing the time to bring them up to speed.

Teens should be encouraged to ask questions, Mathews emphasized. Mathews cautioned that managers shouldn't assume that teens can figure it out on their own.

The new FLSA penalties for child labor violations took effect when GINA was signed into law on May 21, 2008, and apply to deaths or serious injuries that occur after GINA's enactment.

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