
PERSPECTIVES

JULY 2018

PHRA

AFFILIATE OF
SHRM
SOCIETY FOR HUMAN
RESOURCE MANAGEMENT

PITTSBURGH
HUMAN RESOURCES
ASSOCIATION PRESENTS

70TH ANNUAL CONFERENCE & EXHIBITION

TODAY'S VISION. TOMORROW'S REALITY.

DOUBLETREE CRANBERRY
9 & 10 OCTOBER 2018

WE ARE AN APPROVED CREDIT PROVIDER FOR
PHR | SPHR | SHRM-CP | SHRM-SCP

TICKETS ARE GOING QUICKLY- REGISTER TODAY



Learn More at Pittsburgh.HRA.org/Event/2018

PERSPECTIVES

TABLE OF CONTENTS

PHRA President's Message	4
Getting to Know our Board Members	6
Do Hiring Managers Have the Hardest Job in The Company?	9
6 Reasons Why Your Organization Will Benefit from Your Participation in a PHRA Certification Prep Class	11
How to be the "No-(wo)man" in a "Yes-(wo)man's" world	13
Protecting Confidential Information When Exiting Employees	15
New Handbook Guidance from the NLRB	19
Thinking Outside the Box: The Future of Employee Benefits Flexibility! Creativity! Portability! Value-Added!	21
New Members	23
2018 Events	24



PHRA PRESIDENT'S MESSAGE

Kori Amos , President, PHRA

Dear PHRA Members,

On the Southwest flight to Chicago for the SHRM 2018 conference, I sat next to fellow conference-goers who, like myself, were first time attendees. The conversation started with some obvious questions, "Where do you work? What's your role in HR? How many employees...and yada yada." Once we exhausted the surface questions, we started to discuss where we thought the profession of HR was going and what we hoped to gain from attending the SHRM conference with 20,000 of our fellow HR professionals. The responses varied, but the overwhelming theme was that we wanted to be able to take something back to our organizations that would provide something valuable - not just lip service and platitudes, but something that would support and improve our companies.

SHRM CEO, Johnny C. Taylor, Jr., kicked off the conference, clearly wanting to galvanize and energize the audience with a speech embodying the SHRM tagline, "Together Forward". He challenged those in the room to find ways to elevate our profession to impact the people around us, even in the midst of sometimes difficult circumstances like the #MeToo movement, the #TimesUp campaign, and political dividedness, to name a few. Despite those challenges, that converge to a point in the workplace, his message was one of hope and perseverance.

The session that impacted me most was Cy Wakeman's. I'm currently reading her book, "No Ego", and was adamant that I attend her session and shake her hand. Word to the wise: if you have your heart set on a session, odds are some of the 20K fellow attendees do too. I made it a point to get to Cy's session early, which was no small feat because I think I had to walk about 5-7 miles to get to each session - Chicago's McCormick Place is not small!

The session was titled, "How HR Leaders Can Cut the Cost of Drama, End Entitlement and Drive Big Results", and did not disappoint. As in her book, she described behaviors and mental processes that take us down a pathway of being defensive, complaining, whining, blaming - all things that take us into our "low self", things that feed our ego and cause emotional drama and account for hours and hours of wasted, unproductive time spent. Have you ever played out an entire argument with another person in your mind? The other participant didn't even need to be present! You've already tried and convicted them without ever speaking to them. Cy challenges us to ask these questions, "What do I know for sure? How can I help?". It's a hefty challenge that takes resilience and discipline but one worthy of our time and attention.



PHRA PRESIDENT'S MESSAGE

Kori Amos , President, PHRA

Other sessions I attended included: Communicating for Greater Influence; Detecting Lies and Deception: Practical Skills for HR Professionals; Seeing the Big Picture: Business Acumen to Build Your Credibility, Career & Company; The Trust Edge: How Top Leaders and Organizations Drive Business Results Through Trust, Seven Steps to Creating Bulletproof Documentation, and HR on Purpose!

It's an interesting and fulfilling experience to be amongst that many people for a few days who, of course come from different background and priorities, but who as a profession are aligned and excited for the future with one another. It got me chomping at the bit for the PHRA conference in October! I'm positive that it will be a worthwhile way to spend 2 days with our Pittsburgh Area HR friends and colleagues, and I can't wait to see you there.

Kori Amos
PHRA President

GETTING TO KNOW OUR BOARD MEMBERS

PETER GABRIEL

2018 PHRA Board of Director



Where do you work and what do you do?

I work for Key Leadership LLC. My areas of focus are creating/facilitating leadership and team development programs for organizations and coaching executives and emerging leaders to realize their full leadership potential. What I like about my role is helping my clients to grow, develop, and realize their dreams!

How has the PHRA benefited you in your career, or personally?

I think the networking that goes on at the PHRA is amazing! I grew up in the Pittsburgh area and moved away for 25 years. I returned to Pittsburgh a few years ago and the people in the PHRA really made me feel welcomed back! I also think the professional development through the workshops and education which the PHRA provides to the Pittsburgh Human Resources community is top-notch.

What's the best part of being a PHRA Board Member, or a particular Board initiative you want to highlight?

The best part of being a board member is that you get to develop your leadership and strategic skills outside of your day-to-day job and do it with a fantastic group of talented people!

Each month, the PHRA Board of Directors will host a Coffee Corner meet and greet. Check the PHRA website for RSVP details.



GETTING TO KNOW OUR BOARD MEMBERS

DANINE MILLER

2018 PHRA Board of Director

Where do you work and what do you do?

I work for Nesco Resource and my title is Senior Recruiter. My day-to-day revolves around matching talented people in engineering, IT, and professional services with their next career opportunity.

How has the PHRA benefited you in your career, or personally?

The PHRA has benefited me personally because it has allowed me to develop valuable relationships with HR professionals in Pittsburgh. It also has provided me with the opportunity to gain mentors which I know I can rely on for my entire career.

What's the best part of being a PHRA Board Member, or a particular Board initiative you want to highlight?

As Co-chair of the PHRA Membership, Diversity & College Relations committee, I am primarily responsible for diversity and college relations efforts. I would like to highlight the upcoming "Workplace Diversity & Inclusion for HR Professionals" event on Aug. 21, from 7:45AM—Noon, located at Two Gateway Center, Fourth Floor, North Wing, Downtown Pittsburgh. It is approved for 4 PHR (HRCI) and SHRM-CP/SCP Credits and the cost is only \$29!

Each month, the PHRA Board of Directors will host a Coffee Corner meet and greet. Check the PHRA website for RSVP details.



THANK YOU, PHRA MEMBERS

You are vital to the success of the PHRA - and we want to thank you! Join us for **complimentary breakfast networking events** throughout the summer - all we request is that you invite at least one non-member to join you.

Member Appreciation Breakfast
7:15 AM - 9:00 AM

Fri., July 20 - Panera Mount Lebanon

Fri., August 24 - Panera North Fayette

RSVP at PittsburghHRA.org/event/Appreciate18

DO HIRING MANAGERS HAVE THE HARDEST JOB IN THE COMPANY?

Is it all that hard to hire great talent? All hiring managers have something in common - they're looking for the top-notch talent to support growth and reduce turnover. You're keeping the business humming along, delivering candidates to HR and executives day in and day out. If you're stretching yourself too thin and struggling to keep up with the demand for qualified candidates who fit your company culture, it's not for lack of trying. Your strategy needs a new perspective.

A hiring strategy that sticks combines the most important components of your company culture with comprehensive data, all with high visibility and compliance across all processes. Something beautiful happens when you bring together unbiased MSP professionals and technology - we call it the Alius effect, streamlined talent acquisition with staying power.

Alius is a talent strategy consulting company built by hiring pros, for hiring pros. Our goal is to eliminate hiring stressors at every stage, from design to deployment. Our experienced team is filling in the gaps in your talent strategy every day, with comprehensive data to back it up so you can make fact-based hiring decisions with confidence.

How to Create Hiring Strategies That Work

1. Making an unbiased assessment: At Alius, we provide independent appraisals of your talent strategy from a new perspective. A third-party review of your current strategy, roadblocks, and assets is the first step in creating a hiring strategy that's tailored to fit your environment.
2. Selecting a proven hiring strategy: We've been on both sides of the managed services equation, making our consultants experts in total talent management. Our experienced MSP navigators provide strategies that work for everyone on your team - HR, hiring managers, and execs.
3. Implement and analyze: With the right strategy and actionable steps in hand, you're ready to move forward with confidence. An Alius hiring strategy lets managers focus on management rather than recruiting by creating a single point of contact. No back and forth, no dealing with multiple staffing companies for different positions. Put your Alius MSP or customized roadmap to work, all while gathering the data you need to back it up.

Why Alius Works

Our processes are proven to find and keep talent while saving time and money for hiring managers at every level of business, from small startups to large corporations. If you want to build a bridge between strategy and execution, it's time to think about things differently. Alius is taking the guesswork out of hiring strategy by combining experience and unbiased third-party expertise.

Alius is a WBENC-Certified Women's Business Enterprise. Our CEO Jamie Stansfield turned her total talent management expertise into a full-service talent strategy business in 2017, helping you assess, select, and implement the right hiring plan for your business. With our team of experienced MSP professionals, we're bringing a new perspective to your hiring strategy. Consider Alius and consider it managed.

PITTSBURGH **HUMAN RESOURCES**
ASSOCIATION PRESENTS

HR LEADS

with Joelle Emerson, Founder & CEO, Paradigm

AN EVENING WITH SILICON
VALLEY'S 'BIAS DISRUPTER'

Approved for 1 PHR | SHRM-CP | SHRM-SCP Credits

WEDNESDAY, AUGUST 22

PRESENTATION AT 4 PM

NETWORKING AT 5 PM

DOUBLETREE BY HILTON

GREEN TREE

Learn More & Register at
PittsburghHRA.org/Event/HRLeads18

6 REASONS WHY YOUR ORGANIZATION WILL BENEFIT FROM YOUR PARTICIPATION IN A PHRA CERTIFICATION PREP CLASS

Dear PHRA Members,

There are many reasons why you should pursue SHRM-CP or SHRM-SCP certification. Once you set your certification or professional development goal, it is important to help your manager understand the value of certification and build a business case for preparation training as a worthwhile investment. PHRA's Certification Committee is dedicated to helping you demonstrate why your organization should support your efforts to prepare for and attain a SHRM-CP or SHRM-SCP certification. I encourage you to schedule a meeting with your manager and arrive prepared with powerful talking points provided below.

MY KNOWLEDGE WILL BE CURRENT AND RELEVANT: Now, more than ever, HR teams are required to assume a greater leadership role, contributing to and advancing their organizations' strategic direction. The SHRM-CP and SHRM-SCP credentials recognize this trend and take a fresh and current look at what HR professionals need to know—and how to put that knowledge to work. The certification program covers behavioral competencies and functional knowledge areas within the themes of HR Competencies, People, Organization, Workplace and Strategy.

I WILL LEARN PRACTICAL SKILLS THAT WILL IMPACT MY JOB IMMEDIATELY: SHRM certification is the standard for HR professionals around the globe, as it is among the first to focus on practical, real-life HR information, teaching, and testing competencies and knowledge. When you prepare for the certification exam with the SHRM Learning System you will be applying concepts, using behavioral judgment and understanding best practices for handling day-to-day business as well as unexpected scenarios.

THE SHRM-CP & SHRM-SCP WERE DEVELOPED WITH EMPLOYERS IN MIND: SHRM conducted global research, including outreach to major corporations, universities and over 35,000 members of the profession worldwide. Based on its findings, SHRM determined that, in addition to technical knowledge, a successful HR career will also be determined by behavioral competencies—the SHRM-CP and SHRM-SCP include both of these essential elements. This credential will reflect what you need to know and how to apply it to be a leader in your organization.

YOUR KNOWLEDGE AND SKILLS WILL BE GLOBALLY APPLICABLE AND UNIVERSALLY

RECOGNIZED: Based on one single SHRM Body of Competency and Knowledge, the SHRM-CP and SHRM-SCP credentials are relevant and applicable worldwide. Earning this credential will give you the recognition and flexibility to use your knowledge, skills and competencies anywhere your organization operates, now and in the future.

(Cont.)

6 REASONS WHY YOUR ORGANIZATION WILL BENEFIT FROM YOUR PARTICIPATION IN A PHRA CERTIFICATION PREP CLASS

EMPLOYERS ARE ASKING FOR IT! As you climb the corporate ladder the more significant certification will become in your career. 9 out of 10 HR related jobs posted on Monster.com require certification!

YOUR CERTIFICATION AND TRAINING IS PROVIDED BY THE LEADING ADVOCATE FOR HR

PROFESSIONALS: SHRM has represented the HR community for more than 70 years and has more than 290,000 members in 160 countries. It is a well-respected organization at the forefront of HR trends and emerging professional knowledge. The SHRM BoCK, the foundation of this credential and recertification, is supported by SHRM, is kept current and relevant, and encourages lifelong learning.

PHRA is pleased to offer you a certification preparation class that is cost-effective and conveniently located in our office. I encourage you to become certified and advance your career by participating PHRA's Fall Certification Prep Class. <https://www.pittsburghhra.org/page/PHRACertification>

Thank you for considering this educational opportunity. Our PHRA staff will be happy to discuss any certifications questions you may have. Please don't hesitate to give them a call!

Sincerely,

Liz Lamping
PHRA Executive Director

Cite: www.shrmcertification.org

HOW TO BE THE “NO-(WO)MAN” IN A “YES-(WO)MAN’S” WORLD

By Amy Hanrahan, MHRM, SHRM-CP

I’m a mom. I have a 3 “going on 13” year old daughter. She’s genuine, smart and kind. But those cute chubby cheeks know the ins and outs of working her father. He’s the “yes” man. My fellow parents can sympathize here.

It was 6 o’clock on a Monday. I had dinner already in the crockpot and was feeling like SuperMom. We were ready to eat as soon as we walked in the door after a long day at work. She had other plans and wanted goldfish crackers. I tell her its dinnertime, and she’s mad. So... she blatantly turns and says, “Daddy...Mommy, said no, but can I have fishies?”. You have to be kidding me, kid! I give him the “don’t you dare” look, and he humors me by not allowing it. But, I’m not dumb. I know that if he had been in the other room, he would have said: “ok, sweetie.”

Now, arguing with a 3-year-old is like screaming at the sky when it’s raining. You are still going to get wet, and nobody wins. But this made me think: When did we start feeling obligated to say yes? When did the word “No” become such a faux pas? There is an art to finding that perfect balance in our everyday lives. Saying “no” isn’t always the easy way. But with the unemployment rate at a record low, we as HR professionals are in constant battle against the wants of stakeholders. Do we give in to every suggestion to please the people? Or do we hold firm to our budgets and policies?

HR professionals know the drill: You can’t please everyone. There will always be those few who are never happy. When it comes to understanding when to say no, here are a few simple strategies for finding your voice with your stakeholders.

1.What warrants a yes? I’m a naturally born empathizer, and I sometimes feel the pull of wanting to say yes to everything. Oh, you need HR in a meeting about the best snacks to have in the breakroom... uh, sure!? However, those types of agendas do not always serve my professional goals. When you break it down, every “yes” turns another commitment into a “no.” For instance, if saying yes to the “snacks in the breakroom” meeting means taking away from your prep time for the all-hands meeting, it should be skipped. Now, nobody wants to be the person who always declines. Prioritize your “yes’s” to not only give the drive to your day to day but also to keep you involved with the desires of your stakeholders.

2.Take your time and consider your delivery. Your supervisor asks you to take on some additional projects with extremely tight deadlines, and there is no way you can add it to your plate right now. Many of us are hard-wired to say “yes” to someone of authority without a second thought. However, there is a way to say “no” without overstepping or losing their respect. You may need to take some time to sleep on it and set your strategy. Consider saying, “Thank you for thinking of me on this, but I was planning on allocating my time towards [insert project here].” By using this approach, it opens a dialogue that allows for collaboration. Your supervisor then knows exactly what is on the agenda and can give their input without feeling like you have given them a hard no.

HOW TO BE THE “NO-(WO)MAN” IN A “YES-(WO)MAN’S” WORLD (CONT.)

3. Offer the “why” behind the “no.” I work in a marketing/agency environment. Collaboration and creativity run rampant, and I love and support every second of it. However, that ingenuity comes a variety of challenging requests. To navigate these requests, it is best to have a clear agenda. Sometimes we are forced to shut something down. Now, “My way or the highway.” has never earned anyone the boss of the year award. Therefore, offering the “why” behind the “no” can often get your employees to jump back on board to help achieve your organizations’ goals.

4. Own it. Limp phrases such as “I’m not sure” and “I don’t think I can” will easily be misinterpreted into a “yes.” It is best to be direct with your stakeholders as to why something cannot happen. Now, similar to my 3-year-old daughter, the person who was turned down will likely try to find a way to get their “yes.” Ultimately, their best strategy will be to try to back you into a corner. However, standing firm on your original decision is the only way to ensure both forward progress for both you and your stakeholders.

The struggle between pleasing the people and pleasing the bottom line is a constant battle. However, we each have the ability to take each “yes” or “no” situation as an opportunity to make a strategic move toward our main objective. Don’t be afraid to make the right decision for you or your stakeholders, stand firm and say “No, you can’t have fishies. Now let’s eat dinner.”

PROTECTING CONFIDENTIAL INFORMATION WHEN EXITING EMPLOYEES

Jaime S. Tuite Esquire, jaime.tuite@bipc.com, Buchanan Ingersoll & Rooney PC

All employers have information that they consider valuable and confidential. Such valuable and confidential information differs depending upon the nature of the business. Information employers may consider confidential include financial, business, scientific, technical, economic or engineering information, including specific customer preferences, pricing, profit margins, business strategies, compilations of business information, formulas, financial plans, designs, programs, methods, etc. In order to safeguard confidential information, employers need to establish what information is, in fact, confidential, communicate the confidential nature of the information (by labeling it “confidential” and restricting access to it), and protect it, particularly from employees who may be motivated to take it with them at the time of their separation from employment.

Employers disclose confidential information to their employees who need such information to perform their jobs. However, wise employers also restrict employees’ use and disclosure of such confidential information before providing the employees with access. These restrictions are for a variety of reasons, including: (1) maintaining the secrecy of the employers’ confidential information, (2) preventing competitors from obtaining an unfair competitive advantage that could adversely impact the employer, and (3) preventing data breaches of personal information, which are costly and damaging to a company’s reputation.

Employers will generally require employees to sign confidentiality agreements and implement confidentiality policies that employees must follow. For example, the following communication is a typical part of the notice provided to employees about confidentiality:

During the course of your employment, you will become aware of trade secrets and similarly protected proprietary and confidential information about the Company, including, but not limited to, its operations, customers, vendors, products, research and developments, non-public marketing ideas, strategies, intellectual property, and competitive plans (“Confidential Information”). Employees must exercise good judgment and care at all times to avoid unauthorized or improper disclosures of any such information.

Additionally, employers often train employees about: (1) the restrictions on their transferring confidential information to their personal devices or accounts, (2) not leaving confidential information in the open, (3) security measures that should be used to safeguard confidential information, such as encryption of data, (4) securing log-in credentials, and (5) not speaking about confidential information in settings where it could be overheard.

These restrictions, communicated by agreements, policies and trainings, often dovetail with other employer policies that involve confidentiality and safeguarding of information. Other policies that often include confidentiality restrictions are electronic communications policies, social media policies, and data security policies.

Employers must nonetheless remember that there are limitations on what employers can require employees not to disclose!

(Cont.)

PROTECTING CONFIDENTIAL INFORMATION WHEN EXITING EMPLOYEES (CONT.)

Some of these limitations are legal in nature. For example, the National Labor Relations Act limits employers from restricting employees' communications about working conditions, wages or engaging in concerted activity. Likewise, a myriad of laws, such as the Defend Trade Secrets Act with its whistleblower immunity provisions, allow employees to communicate violations of law to government agencies or to their counsel. Additionally, a number of government agencies, like the Equal Employment Opportunity Commission, the Securities and Exchange Commission and the Occupational Safety and Health Administration restrict employers' confidentiality requirements, including in settlement agreements with former employees.

Besides legal limitations, practical limitations also exist. By way of example, employers should not attempt to limit communications about information that is publicly known or that employees obtain through third parties with no confidentiality obligations. As a result, employers must draft their confidentiality restrictions with awareness of these limitations and in a manner consistent with their other policies that include confidentiality provisions.

Even if an employer has properly safeguarded its confidential information through its agreements, policies, and procedures, issues can still arise when an employee resigns. Ensuring that employees do not take, use or disclose confidential information after their employment separation is critical. Below are my top five tips for protecting confidential information when exiting employees:

- 1. Review Employees' Devices and Accounts:** When an employee with access to confidential information resigns, an employer should have a protocol to conduct a systems and device audit. This audit is the single most important step to identifying data theft and preventing or limiting its use. Some companies with sophisticated IT departments are able to conduct such audits without help, but other companies use third-party vendors (after entering into the appropriate confidentiality agreements with such vendors) to conduct the audit. These audits often reveal information about: (a) employees forwarding confidential information to their personal email accounts, (b) employees transferring data to flash drives, (c) employees uploading information to drop boxes, and/or (d) employees printing confidential information to take with them in hard copy.
- 2. Ask Questions and Review Procedures at Exit Interviews:** Employers should ask specific questions of departing employees regarding their access to and use of confidential information. If employers are able to conduct a system and device audit before the exit interview, it may help to guide some of the questions that are asked. These questions should include:
 - a. Ask about the Location of Company Property:** Employers need to review employees' use and the location of the company's property and confidential information. This means asking specific questions like:

(Cont.)

PROTECTING CONFIDENTIAL INFORMATION WHEN EXITING EMPLOYEES (CONT.)

- did you email any company information to any of your personal accounts during your employment?
- did you transfer any company information onto any USB devices or flash drives?
- do you have any company information on any of your personal devices?
- have you transferred any company information to a drop box account?
- do you have print outs of any company information?
- did you take any photos of any company information?
- have you backed up your company phone to the cloud?

Some employees, if they are honest, will admit to forwarding, transferring or printing some company confidential information, even if it is “just their contacts” or information that they thought was “not a big deal.” Employers need to know about the location of their information, whether or not it is confidential under their agreements or policies, and have a plan for its return.

b. Ask about Company Property Return: Most employers use a checklist to make sure that employees return company property and will review the employer’s policies and procedures with their employees when they are returning company property. This discussion should include reminding employees about their obligation to return all property, including electronically-stored information. Employers should instruct their employees not to reset their computers, ipads or smart phones to original factory settings because it eliminates the employers’ ability to access information on those devices, including possible evidence of the taking of confidential information. Additionally, employers should be prepared to address how employees should “return” any electronically-stored information.

c. Ask about Retrieving “Personal Information” from Company Systems: Over the course of employment, employees sometimes store personal information on their employers’ systems or devices. As a result, employees may seek to remove such information themselves or with the help of IT. Employers should review the company’s process for allowing employees to remove their “personal information” from company devices, accounts or systems as well as the procedures for ensuring that it is personal information and not valuable confidential information of the employer. Employers need to ask employees about what information employees have stored on company systems and devices. By doing, employers may foreclose later claims by employees that they did not take confidential information; they only took personal information.

d. Ask for Specifics about the New Employment: If an employee is taking a nearly identical position or receiving a promotion at a direct competitor, employers need to know. Such information may impact how long an employer wants to allow the employee to work out their notice period, to attend certain meetings, or continue having access to confidential information. Employers should ask specific information about how long the employee has been job searching, when the job offer was provided, and the overlap between the employee’s current position and new position.

(Cont.)

PROTECTING CONFIDENTIAL INFORMATION WHEN EXITING EMPLOYEES (CONT.)

- 3. Review Post-Employment Obligations:** Employers should review with exiting employees all restrictive covenants, including non-compete restrictions, non-solicit obligations, and continuing confidentiality obligations. Often, such reviews include providing copies of employment agreements, confidentiality agreements, and confidentiality policies to employees. Employees with access to trade secrets during their employment also have statutory obligations under the Defend Trade Secrets Act and similar state laws, like the Pennsylvania Uniform Trade Secrets Act. Exiting employees should be reminded of these statutory obligations. Reminding employees of all of their post-employment obligations increases the likelihood of employees' compliance with these obligations.
- 4. Promptly Disable Employees' Access:** Employees generally have access to systems, databases, computers, printers, copiers, CRM tools - sometimes via remote access through personal devices. Employers should consider disabling access sooner rather than later once an employee has provided notice.
- 5. Consider Use of a Continuing Obligations Letter or Verification:** Employers should consider reiterating post-employment obligations in letters to employees and having employees verify their compliance with their obligations. In some cases, such letters and verifications become evidence of the employees' willful violation of their obligations.

NEW HANDBOOK GUIDANCE FROM THE NLRB

Mariah L. Passarelli, Esq., mariah.passarelli@bipc.com

On June 6, 2018, the General Counsel for the National Labor Relations Board (“NLRB”) issued a Guidance Memorandum regarding employer policies and workplace rules. (NLRB Memorandum GC 18-04).

By way of background, Section 7 of the NLRA protects employees’ rights to “self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in other concerted activities for the purposes of collective bargaining or other mutual aid or protection.” In turn, Section 8(a)(1) of the NLRA allows for an aggrieved employee or Union to file an Unfair Labor Practice (“ULP”) charge with the NLRB if an employer interferes with, restrains, or coerces employees from exercising these rights. Section 8(a)(1) also states that an employer may unlawfully interfere with an individual’s Section 7 rights by issuing, maintaining, and/or enforcing certain workplace rules and, as such, ULP charges have long been filed asking the NLRB to determine the legality of employer policies/rules.

In December 2017, in its decision in *The Boeing Company*, 365 NLRB 154 (Dec. 14, 2017), the NLRB set forth a new standard for addressing ULP charges pertaining to workplace rules, replacing the previous standard established by *Lutheran Heritage Village-Livonia*, 343 NLRB 646 (2004). Under the previous *Lutheran Heritage* standard, the NLRB held that facially neutral employer rules violated the NLRA if they could be “reasonably construed” by an employee to prohibit the exercise of Section 7 rights.

The new *Boeing* standard is far more employer-friendly and focuses on a balancing test, weighing the negative impact of the workplace rule against the employer’s right to maintain discipline and productivity. The *Boeing* standard created three (3) categories of rules: (1) rules that are generally lawful to maintain; (2) rules that warrant individualized scrutiny by the NLRB; and (3) rules that are plainly unlawful. The June 2018 NLRB Guidance provides specific examples of rules that fall into each of these three categories.

Boeing describes Category 1 rules as those that either do not reasonably interfere with the exercise of an employee’s Section 7 rights, or the potential negative impact of the rule on an employee’s Section 7 rights is outweighed by the employer’s business justifications for the rule. The Guidance Memorandum lists the following examples of rules that fit into Category 1:

- Civility rules
- Rules prohibiting photography and/or recording in the workplace
- Rules prohibiting insubordination/refusal to cooperate
- Rules prohibiting workplace conduct that adversely affects operations
- Rules that prohibit disruptive workplace behavior
- Rules protecting confidential, proprietary, and customer information
- Rules prohibiting defamation and misrepresentation
- Rules prohibiting employees from using employer logos and trademarks

(Cont.)

NEW HANDBOOK GUIDANCE FROM THE NLRB (CONT.)

- Rules requiring that an employee be given authorization to speak on behalf of the employer
- Rules prohibiting disloyalty, nepotism and self-enrichment

Boeing describes Category 2 rules as those that, while not obviously unlawful, justify a fact-specific examination to determine whether they would interfere with an employee's Section 7 rights and, if so, whether that detriment is outweighed by the employer's business justification for the rule. The Guidance Memorandum lists the following examples of rules that fit into Category 2:

- Broad rules regarding conflict-of-interest scenarios that do not specifically target employee fraud or self-enrichment
- Broad rules requiring employees to maintain confidentiality of undefined categories, such as "employer business" or "employee information"
- Rules prohibiting disparagement or criticism of the employer;
- Rules prohibiting use of the employer's name
- Broad rules restricting employees from speaking to the media or third parties
- Rules prohibiting off-duty conduct that might harm the employer
- Rules prohibiting employees from making false or inaccurate statements

Boeing describes Category 3 rules as those that are generally considered to be unlawful because they prohibit or significantly limit an employee's Section 7 rights and that impact outweighs any possible business justification. The Guidance Memorandum lists the following examples of rules that fit into Category 3:

- Rules requiring employees to maintain confidentiality of wages, benefits or working conditions
- Rules prohibiting employees from joining outside organizations
- Rules prohibiting employees from voting on matters pertaining to the employer;

In addition to describing the types of rules in Categories 1 and 2, the Guidance Memorandum also gives specific example language for permissible rules in those categories. With this clarity – and the decidedly pro-employer standard set forth in Boeing – ULP charges regarding workplace rules may decrease in the coming year.

THINKING OUTSIDE THE BOX: THE FUTURE OF EMPLOYEE BENEFITS

Flexibility! Creativity! Portability! Value-Added!

Amanda Cassady, J.D.

A pension, health insurance, life insurance, and paid time off: that has been the foundation of employee benefits for the last 60-70 years. And while health insurance remains a staple of a good employment package- we all know things have changed. Our fathers and grandfathers enjoyed their pensions and gold watches as they seemingly walked into the glorious sunset of life. Today, employees with pensions represent a tiny percentage of our workforce and with the costs of living and running a business rising, we aren't likely to see a renaissance for the pension and gold watch combo any time soon.

Over the last 30 years, 401(k)s and other employer-sponsored, contributory plans have emerged as a way for business owners to reduce their costs while still providing some retirement benefit to attract new employees and retain their current ones. However, in most cases employees are now responsible for funding the majority of their own retirement. And they are feeling the pinch! Especially when you consider the lack in confidence the younger half of the workforce has in the Social Security system. We hope to see some corporations feeling tax relief contribute more towards their employees' retirement plans, but even with a percentage or two bump in matching contributions- it is now clearer than ever that after we retire... we're on our own!

So what is a conscientious business owner to do? The desire to treat employees well and provide incentives is there, but in many cases the cash to fund these programs, and the confidence that the economy will continue to support the increases in spending, is not. Owners and Human Resources departments are getting creative in an effort to attract and retain and the keys to their success seem to be flexibility, portability, valued-added services.

Working Remotely

One attractive benefit that employers are beginning to offer with more frequency is the ability to work remotely. This benefit usually incurs little to no extra expense to the employer

and, in fact, often saves money in housing and energy costs. In addition, a recent Forbes study reports that there is growing evidence that allowing employees to work from home increases productivity. There are many reasons posited for this increase, but job satisfaction, ease of environment, and optimal hour distribution are among those cited, as well as simply having more hours in the day to spend with family or complete tasks. Many families are two income households and working remotely also offers one parent the ability to stay home with a sick child, be more available for after school activities, or even work from home regularly to supervise care for those children with special needs.

Flexible Hours

If your employee doesn't work directly with the public in the form of opening up shop or answering the phones, you might consider a flexible work schedule. One Pittsburgh employer said that she allows many of her workforce to choose their work hours, between the hours of 6am and 10pm Monday through Friday. She expects an 8-hour workday with a half an hour break, but when employees start and when they finish is up to them. She reports that early birds in her office are in at 6am to avoid rush hour and be home early enough to enjoy their evenings while some night owls work better in the evenings and come in between 2-10pm. Of course, the receptionists, janitorial staff, and other key employees must have regulated hours – but this Pittsburgh business owner reports that she gives them extra incentives to make up for their lack of choice.

4-Day Work Weeks

In the same vein, we've seen employers realizing that 40 hours a week is 40 hours a week, regardless of the time you put those hours in. Many employers are allowing employees to work longer days in order to have an extra day off and seeing benefits in work ethic, project completion, and less wasted time.

THINKING OUTSIDE THE BOX: THE FUTURE OF EMPLOYEE BENEFITS

Flexibility! Creativity! Portability! Value-Added!

Cost of Education Relief

For years, savvy companies have been offering employees the ability to go to school while they work and pay some or all of the tuition should they qualify by time of service or promise to stay with the company for a certain number of years. This remains a popular benefit, but now many cutting-edge companies are offering to pay off student loans as signing bonuses, performance bonuses, or even as salary offset. For instance, if an employee pays \$6,000 a year in student loans, the company will offer to cover those payments entirely while they continue to work for them. Talk about an attractive benefit to the current generation of graduates with massive student loan debt!

Lunch and Learns

Providing learning opportunities and enrichment opportunities for your employees can be a relatively low-cost way of adding value to their employment with you. How about offering to have a CPA walk them through a few tax tips for the end of the year? Bring in a college financial aid officer to talk to parents about how to take advantage of scholarships and grants. A fitness trainer to give 5 key ways to get healthier this year. Or a financial planner to offer free annual financial reviews to your employees. Many of these people will do this free of charge or at very little cost to you, and all you have to provide is the pizza or sandwiches. In many cases, the presenters can be persuaded into buying lunch as well!

Optional Benefits Through Payroll Deduction

We all know that our real salary – the money we have to live on -- is what gets deposited into our checking accounts! Things like Social Security tax, Medicare, health insurance, and income taxes are all deducted before we get our hands on it- so did that money ever exist at all? With that in mind, many employers are offering to payroll deduct certain expenses from their workers' paychecks for them. Gym memberships, subscriptions, childcare cost, long-term care insurance, and even retirement savings plans and guaranteed acceptance

insurance plans outside of company plans are common. Some of these plans are portable as well, and can be kept even if you retire or separate from that company. These are seen as an enormous value added that costs the employer next to nothing but provides convenience, ease of operation, and actual financial benefit to the employee. For instance, let's say an employee is diabetic and wants cash value whole life insurance. She will be denied, or pay a horribly high premium if she gets private insurance, however, if her employer offers to payroll deduct group coverage from a private insurer on a guaranteed basis – she gets covered, it's automatically deducted from her paycheck, and the employer doesn't feel it in their wallet at all.

Wellness Benefits

Health and wellness benefits are going beyond health insurance these days for creative and empathetic employers. Great ideas here include an annual checkup from a physician or nurse that comes into the office, the occasional visit from a masseuse, as well as wellness rooms where employees who aren't feeling well can relax, nap, and try to recuperate.

Discounts

If you have enough people power, you can negotiate excellent discounts and benefits for your employees. Things like discounts on mobile phone coverage, computers, gym memberships, childcare, Kennywood tickets, concerts and sporting events- all of these provide a feeling of appreciation and value added and make employees happy. A large local law firm provides employees with \$1 a minute back massages on special days, and pays for food trucks to park outside their office for employee appreciation.

With costs of running a business continuing to rise, these cost-effective and creative employee benefits are the path that many employers are taking to keep their employees happy and productive. For more information, and other creative employee benefit ideas join us on **September 25th at PHRA headquarters** for a Breakfast Briefing from New York Life.

NEW MEMBERS

Tina Antolik

W A HOY CONSTRUCTION

Lisa Brooks

Industrial Scientific Corporation

Camille Ellis

Carnegie Mellon University

Christine Ellwanger, PHR|SHRM-CP

Industrial Scientific Corporation

Cynthia Gerber

Leslie Giannetta

UPMC Centers for Rehab Services

Debbie Good

University of Pittsburgh - Joseph M. Katz
Graduate School of Business

Jonathan Good, PHR|SHRM-CP

NEP Group Inc.

Jaclyn Hoover

Propel Schools

Danielle Jacobson

Shala Johnson

Interim Healthcare

Judy Johnson

Aspirant

Cheryl Jones

BKD

Jennifer Kelly

ECA

Brittany Kerchersky, PHR|SHRM-CP

The Farmers National Bank

Linda Kricher

Net Health

Ashley Krug

Russell Standard Corp

Jane Lamp

Matthews International Corp.

Beth Magill

TRC Companies, Inc.

Jonathan Marr

PPG Industries

Kimberly McKean

Spang & Company

Janet McKee

SanaView

Holly McMaster, PHR

Tracy Plevel

Gateway Rehabilitation Center

Lynn Rajchel, PHR|SHRM-CP

LB Foster

Lauren Rintoul

DoubleTree by Hilton - Prospera

Lauren Scamuffa

Adrienne Sims

Jamie Stansfield

Alius, Inc.

Jessica Strong

Flexable

Sarah Stulga, SHRM-CP

Terri Testa

Gateway Rehabilitation Center

Christopher Webb

Carmeuse Lime & Stone

Carolyn Winkelbauer

Phipps Conservatory and Botanical Gardens

Missy Wyzkoski

ERIKS North America

ON THE MOVE

Congratulations to the following PHRA members on recently achieving their SHRM certification:

Susan Yakim, SHRM-CP



2018 EVENTS

The Pittsburgh Human Resources Association offers many valuable networking and education programs throughout the year. Keep an eye on the PHRA online event calendar for a complete and up-to-date listing of all programs. Register for an upcoming event today!

To learn more
and register for
PHRA events

[Click Here](#)

Pittsburgh Human Resources Association

One Gateway Center
Suite 1852
420 Fort Duquesne Blvd.
Pittsburgh, PA 15222
Phone: 412-261-5537
www.PittsburghHRA.org



July 20 | Network
Member Appreciation Breakfast –
Mt. Lebanon (Galleria)

August 15 | Network
August Coffee Corner: Meet Our
Board of Directors

August 21 | Learn
Workplace Diversity and Inclusion
for HR Professionals

August 22 | Learn
HR Leads: Managing Bias in Your
Organization with Joelle Emerson

August 24 | Network
Member Appreciation Breakfast
North Fayette

August 27 | Get Certified
Fall SHRM Certification Prep
Course Begins

August 28 | Network
Mentoring Morning: Inspire.
Connect. Empower.

August 30 | Learn
The PHRA Experience Webinar

September 18 | Learn
Emotional Intelligence

September 25 | Learn
Thinking Outside the Box: Employee
Benefits in 2018

October 5-7 | Get Certified
3-Day Intensive Certification Prep
Course

October 9-10 | Learn
PHRA Annual Conference & Exhibition

October 9 | Network
Meet Your PHRA Colleagues
Networking Event

October 16 | Learn
Employee Viability Equals Employer
Viability: Addressing Employer
Vulnerabilities and Key Strategies

November 7 | Network
Stations to Success Student Event

November 30 | Learn*
Employment Law Conference

December 6 | Network*
Holiday Party

December 18 | Learn
Fun Over Friction: Using Improv for
Effective & Impactful Teamwork

January 15, 2019 | Learn
Banish Burnout: How to 10x Your
Energy, Productivity, Confidence, and
Joy with Zero Stress

*Online Registration Coming Soon For This Event



LA ROCHE'S MASTER'S PROGRAM
IN HUMAN RESOURCES MANAGEMENT
GAVE ME A BROAD UNDERSTANDING
OF HR AND HOW TO BE A LEADER
IN THE FIELD. LA ROCHE EXPOSES
STUDENTS TO DIVERSE EDUCATORS
AND CLASSMATES WHO BRING
TODAY'S BUSINESS REALITIES INTO
THE CLASSROOM.

- HEATHER MCDONALD, '16 MSHRM
Senior HR Advisor
Calfrac Well Services



20% TUITION DISCOUNT
FOR PHRA MEMBERS

laroche.edu/HRM



La Roche
COLLEGE

Engaging Minds. Embracing the World.

