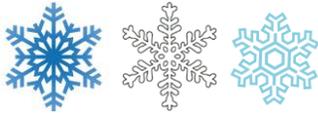




**NEWSLETTER - February 2018**  
**President's Message**



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New year! New challenges!

I like daily calendars that have messages. This year, my daughter gave me a Peanuts' daily calendar, which has a lot of great thoughts from Charles Schultz. Last year, I had a different calendar and in particular, there was a quote for July 2, 2017 that really spoke to me. It was an early motto of Paulist Fathers "The highest point of achievement yesterday is the starting point of today."

I know for many of us, we have been in healthcare for a number of years and this statement is truer now than ever. We can no longer rely on our achievements; we must always be looking at ways to improve how we performed the day before.

There are a lot of factors that go into what we do. Not every patient we touch lives. Some die expectedly; some die unexpectedly. Patients come to us from a multitude of socio economic as well as medical conditions and our staff have to deal with this reality on a day to day basis and make sure that the patient/family are cared for in the best possible manner. We are the ones who need to be there for our patient care providers, to support them, to work with them in accomplishing what we need to do to make our organizations successful. Our organizations are important to our local communities!

Patient satisfaction is important but I also think there are many issues that can affect this that we do not have control over (see above paragraph). Part of the challenge to our patients and to our staff is that we have a respect for each other. This unfortunately, is going against what we see on a daily basis in many communities. Getting back to a respect for each other will help us live out that motto of the Paulist Fathers.

My wish for all of us is that all of our organizations be beacons of light, acceptance, and service in our communities.

*Jim Offenberger*  
*President, OSHHRA*  
*Compensation Specialist, Memorial Health System, Marietta, Ohio*

## OSHHRA MISSION STATEMENT

The mission of OSHHRA is to promote the strategic development of effective human resources management in OHA health care organizations through leadership, education and fellowship. The OSHHRA website is <http://ohiohospitals.org/Member-Services/Personal-Membership-Groups/OSHHRA.aspx>

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### 2018 OSHHRA Board of Directors

#### Officers/Elected Positions

**President:** Jim Offenberger (2017/18) **A**  
**Past-President:** VACANT  
**Communications:** Dominic Prunte (2017/18) **A**

**President-Elect:** Darwin Smith (2017/18) **A**  
**Secretary:** Becky Rozell (2017/18) **A**

#### Regional Board Members

##### **Central Region**

Deb Palmer (2017/18) **A**  
Vickie Crumley (2018/19) **A**

##### **Northeast Region**

Nicole Russ (2017/18) **A**  
Diana Gardner (2018/19)

##### **Northwest Region**

Liz Foreman (2017/18) **A**  
Jody Meisler-McKillips (2018/19)

##### **Southwest Region**

Sharon Hancock (2017/18) **A**  
Tish Walker (2018/19) **A**

##### **Southeastern Region**

Lisa Halley (2017/18) **A**  
Steven Brooks (2018/19) **A**

##### **Directors At-Large**

Jill Prendergast (2017/18)  
Porfirio Esparra (2017/18) **A**  
Melanie Rittenour (2017/19) **A**  
Beth Brill (2017/18) **A**

**A = ASHHRA Member**

# SAVE THE DATE!

## 2018 OSHHRA CONFERENCE

Sponsored by: Ohio Hospital Association and Ohio Society  
of Healthcare Human Resources Administrators

**August 16 – 17, 2018**

Embassy Suites  
5100 Upper Metro Place  
Dublin, OH 43017

### Overview

The OSHHRA fall conference is an educational opportunity led by industry experts who will offer best practices, tools, and resources to help you get motivated and generate ideas for change in the way you conduct your HR business at your organization. While you are learning and developing your HR skills, you will also have the opportunity to network and share knowledge with your colleagues.

### Who Would Benefit by Attending

HR professionals involved at all levels in healthcare, including senior HR executives, compensation executives, benefit coordinators, HR generalists, HR specialists, and recruiters.

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## OSHHRA MEMBERSHIP REMINDER



It is never too late to join OSHHRA! As a reminder, OHA no longer requires personal membership dues to belong to OSHHRA. To join OSHHRA, please send the following information to Cindy Stump ([cindy.stump@ohiohospitals.org](mailto:cindy.stump@ohiohospitals.org)) at OHA:

**Name, title, hospital, business address, email address, phone number and please note if you are a current member of ASHHRA.**

Please send changes to your current membership information to Cindy as well.

## New OSHHRA Members

**On behalf of the Board, we welcome our new OSHHRA Members since our last newsletter!**



- Karyn Batdorf, HR Director, Mercy Health West Hospital, Cincinnati, Southwest District
- Akron Children's Hospital, Human Resource Business Partner, Akron Children's Hospital, Akron, Northeast District
- Cathryn O'Malley, Administrative Director, Akron Children's Hospital, Akron, Northeast District
- Chris Weyand, Director, Support Services and Human Resources, Ohio Hospital Association, Columbus, Central District

## HR REMINDERS & TOPICS

### ➤ **NLRB Reverts Back to Pre-Browning-Ferris Joint Employer Test**

The 2015 Browning-Ferris joint employment test has been overturned. The NLRB reverted to the pre-2015 joint employment test. Employers should evaluate how this may affect their labor relations and related business decisions. The National Labor Relations Board overturned the August 2015 Browning-Ferris joint employment test.

### ➤ **NLRB's Creates New Standard For Employee Handbooks**

The National Labor Relations Board (NLRB) articulated a new standard for evaluating when a facially neutral workplace policy or rule would potentially interfere with rights protected by the National Labor Relations Act (NLRA). In doing so, the NLRB overruled its 2004 Lutheran Heritage Village-Livonia decision, which had held that employers violated the NLRA if their workplace rules could be “reasonably construed” by employees as prohibiting their exercise of protected rights.

In *The Boeing Company*, the NLRB abandoned the “reasonably construe” standard in favor of a new test. “When evaluating a facially neutral workplace policy, rule, or handbook provision, that when reasonably interpreted, would potentially interfere with the exercise of NLRA rights, the Board will evaluate two things: (1) the nature and extent of the potential impact on NLRA rights, and (2) legitimate justifications associated with the rule.” The NLRB emphasized that, in conducting this evaluation, it will strike “the proper balance” between employees’ rights and business justifications.

To that end, the NLRB defined three categories of employment policies, rules, and handbook provisions. These categories form a classification that results in a new test:

**Category 1:** “Will include rules that the Board designates as lawful to maintain, either because (i) the rule, when reasonably interpreted, does not prohibit or interfere with the exercise of NLRA rights; or (ii) the potential adverse impact on protected rights is outweighed by justifications associated with the rule.” The NLRB held that rules requiring that employees abide by basic standards of civility are lawful, as are rules like Boeing’s which prohibited the use of cameras without a valid business need and permit.

**Category 2:** “Will include rules that warrant individualized scrutiny in each case as to whether the rule, when reasonably interpreted, would prohibit or interfere with the exercise of NLRA rights, and if so, whether any adverse impact on NLRA-protected conduct is outweighed by legitimate justifications.”

**Category 3:** “Will include rules that the Board will designate as unlawful to maintain because they would prohibit or limit NLRA-protected conduct, and the adverse impact on NLRA rights is not outweighed by justifications associated with the rule.” An example of such a rule would be one prohibiting employees from discussing wages or benefits with one another.

The NLRB emphasized that even if the maintenance of a particular rule is lawful, the application of that rule to employees engaged in NLRA-protected conduct may still be unlawful. This is determined on a case-by-case basis.

The Boeing case represents a significant departure from the prior rule that had been in place for 13 years. The NLRB believes that the new standard in Boeing will provide “far greater clarity and certainty to employees, employers and unions.”

**NOTE:** You should consult with your legal counsel to ensure you are in compliance.



## Office of Congressional and Public Affairs

Contact: [publicinfo@nlrb.gov](mailto:publicinfo@nlrb.gov)

202-273-1991

January 26, 2018

### ➤ **NLRB Will Extend Time for Filing Responses to the Request for Information Regarding Representation Election Regulations**

To aid in the consideration of the issues involving the 2014 Election Rule, the Board is extending the time for filing responses to the Request for Information Regarding Representation Election Regulations published in the Federal Register. The submission window is currently open and interested parties may file responses on or before Monday, March 19, 2018. The original submission deadline was Monday, February 12, 2017.

On December 14, 2017, the National Labor Relations Board published a Request for Information in the Federal Register, asking for public input regarding the Board’s 2014 Election Rule, which modified the Board’s representation-election procedures located at 29 CFR parts 101 and 102. The Board is seeking information from interested parties regarding three questions:

1. Should the 2014 Election Rule be retained without change?
2. Should the 2014 Election Rule be retained with modifications? If so, what should be modified?
3. Should the 2014 Election Rule be rescinded? If so, should the Board revert to the Representation Election Regulations that were in effect prior to the 2014 Election Rule’s adoption, or should the Board make changes to the prior Representation Election Regulations? If the Board should make changes to the prior Representation Election Regulations, what should be changed?

The Request for Information was approved in December 2017 by former Board Chairman Philip A. Miscimarra and Board Members Marvin E. Kaplan (now Chairman) and William J. Emanuel. Board Members Mark Gaston Pearce and Lauren McFerran dissented.

The official Request for Information as approved by the Board, including the dissenting views, may be found [here](#).

Complete instructions for filing responses are available [here](#) on the Agency’s website.

Click [here](#) to view the original press release published on December 12, 2017.

## ➤ EEOC RELEASES FISCAL YEAR 2017 ENFORCEMENT AND LITIGATION DATA

Agency Reduces Charge Workload to Lowest Level in 10 Years; obtains nearly \$400 Million for Discrimination Victims

WASHINGTON — The U.S. Equal Employment Opportunity Commission (EEOC) today announced that 84,254 workplace discrimination charges were filed with the federal agency nationwide during fiscal year (FY) 2017, and secured \$398 million for victims in the private sector and state and local government work places through voluntary resolutions and litigation. The comprehensive enforcement and litigation statistics for FY 2017, which ended Sept. 30, 2017, are posted on the agency’s [website](#).

The EEOC resolved 99,109 charges in FY 2017 and reduced the charge workload by 16.2 percent to 61,621, the lowest level of inventory in 10 years. The agency achieved this by deploying new strategies to more efficiently prioritize charges with merit, more quickly resolve investigations, and improve the agency’s digital systems. The agency handled over 540,000 calls to its toll-free number and more than 155,000 inquiries in field offices, reflecting the significant public demand for the EEOC’s services.

“Over the past year, the EEOC has remained steadfast in its commitment to its core values and mission: to vigorously enforce our nation’s civil rights laws,” said EEOC Acting Chair Victoria A. Lipnic. “The results for the last fiscal year demonstrate exactly that.”

The FY 2017 data show that retaliation was the most frequently filed charge filed with the agency, followed by race and disability. The agency also received 6,696 sexual harassment charges and obtained \$46.3 million in monetary benefits for victims of sexual harassment. Specifically, the charge numbers show the following breakdowns by bases alleged, in descending order:

- Retaliation: 41,097 (48.8% of all charges filed)
- Race: 28,528 (33.9%)
- Disability: 26,838 (31.9%)
- Sex: 25,605 (30.4%)
- Age: 18,376 (21.8%)
- National Origin: 8,299 (9.8%)
- Religion: 3,436 (4.1%)
- Color: 3,240 (3.8%)
- Equal Pay Act: 996 (1.2%)
- Genetic Information: 206 (0.2%)

These percentages add up to more than 100 because some charges allege multiple bases.

EEOC legal staff filed 184 merits lawsuits alleging discrimination in fiscal year 2017. The lawsuits filed by the EEOC included 124 individual suits and 30 suits involving multiple victims or discriminatory

policies and 30 systemic discrimination cases. At the end of the fiscal year, the EEOC had 242 cases on its active docket. The EEOC achieved a successful outcome in 90.8 percent of all suit resolutions.

**NOTE:** You should consult with your legal counsel to ensure you are in compliance.

➤ **Fact Sheet #71: Internship Programs Under The Fair Labor Standards Act**  
Wage and Hour Division (WHD) (Updated January 2018) ([PDF](#))

This fact sheet provides general information to help determine whether interns and students working for “for-profit” employers are entitled to minimum wages and overtime pay under the Fair Labor Standards Act (FLSA).<sup>1</sup>

### **Background**

The FLSA requires “for-profit” employers to pay employees for their work. Interns and students, however, may not be “employees” under the FLSA—in which case the FLSA does not require compensation for their work.

### **The Test for Unpaid Interns and Students**

Courts have used the “primary beneficiary test” to determine whether an intern or student is, in fact, an employee under the FLSA.<sup>2</sup> In short, this test allows courts to examine the “economic reality” of the intern-employer relationship to determine which party is the “primary beneficiary” of the relationship. Courts have identified the following seven factors as part of the test:

1. The extent to which the intern and the employer clearly understand that there is no expectation of compensation. Any promise of compensation, express or implied, suggests that the intern is an employee—and vice versa.
2. The extent to which the internship provides training that would be similar to that which would be given in an educational environment, including the clinical and other hands-on training provided by educational institutions.
3. The extent to which the internship is tied to the intern’s formal education program by integrated coursework or the receipt of academic credit.
4. The extent to which the internship accommodates the intern’s academic commitments by corresponding to the academic calendar.
5. The extent to which the internship’s duration is limited to the period in which the internship provides the intern with beneficial learning.
6. The extent to which the intern’s work complements, rather than displaces, the work of paid employees while providing significant educational benefits to the intern.
7. The extent to which the intern and the employer understand that the internship is conducted without entitlement to a paid job at the conclusion of the internship.

Courts have described the “primary beneficiary test” as a flexible test, and no single factor is determinative. Accordingly, whether an intern or student is an employee under the FLSA necessarily depends on the unique circumstances of each case.

If analysis of these circumstances reveals that an intern or student is actually an employee, then he or she is entitled to both minimum wage and overtime pay under the FLSA. On the other hand, if the analysis confirms that the intern or student is not an employee, then he or she is not entitled to either minimum wage or overtime pay under the FLSA.

## Where to Obtain Additional Information:

This publication is for general information and is not a regulation. For additional information, visit the Wage and Hour Division Website: <http://www.wagehour.dol.gov> and/or call our toll-free information and helpline, available 8 a.m. to 5 p.m. in your time zone, 1-866-4USWAGE (1-866-487-9243).

### Footnotes:

1 - The FLSA exempts certain people who volunteer to perform services for a state or local government agency or who volunteer for humanitarian purposes for non-profit food banks. WHD also recognizes an exception for individuals who volunteer their time, freely and without anticipation of compensation, for religious, charitable, civic, or humanitarian purposes to non-profit organizations. Unpaid internships for public sector and non-profit charitable organizations, where the intern volunteers without expectation of compensation, are generally permissible.

2 - E.g., *Benjamin v. B & H Educ., Inc.*, --- F.3d ---, 2017 WL 6460087, at \*4-5 (9th Cir. Dec. 19, 2017); *Glatt v. Fox Searchlight Pictures, Inc.*, 811 F.3d 528, 536-37 (2d Cir. 2016); *Schumann v. Collier Anesthesia, P.A.*, 803 F.3d 1199, 1211-12 (11th Cir. 2015); see also *Walling v. Portland Terminal Co.*, 330 U.S. 148, 152-53 (1947); *Solis v. Laurelbrook Sanitarium & Sch., Inc.*, 642 F.3d 518, 529 (6th Cir. 2011).

**NOTE:** You should consult with your legal counsel to ensure you are in compliance.



## ➤ Bureau of Workers Compensation May Lower Insurance Rates

Ohio's private sector employers may see their workers' compensation insurance rates drop 6.3 percent, beginning July 1, if the BWC Board of Directors approves the reduction, state officials announced Tuesday.

Ohio Bureau of Workers' Compensation staff is recommending a cut in base rates for private sector employers. If approved, it would mark the eighth consecutive year in which private sector rates have either fallen or remained flat, BWC officials said. Private employers saw a 2.1 percent rate cut last year, flat rates in 2012 and a 4 percent drop in 2011. Rates for public employers were cut beginning Jan. 1, setting them at the lowest level in 30-some years.

BWC said the insurance system could afford the rate cuts because the number of claims and the cost of those claims has been lower than initially projected.

"The most successful employers are those that understand safe and healthy employees are instrumental to a strong bottom line," said BWC Administrator Steve Buehrer in a written statement. "Going forward, BWC will be intensely focused on the issue of workplace safety and educating employers about the benefits of investing in injury and illness prevention."

Last year the state-run insurance program for injured workers returned about \$1 billion to public and private employers across the state in a rebate program.

The BWC Board of Directors, an 11-member body appointed by Gov. John Kasich, is expected to consider the proposed rate cut at its next meeting in May.

# SAVE THE DATE!

44<sup>th</sup> Annual OSIA Conference

**Date:** June 13 - 15, 2018

**Location:** Hilton Cincinnati Netherland Plaza

## QUICK TIPS FOR MANAGERS

### ➤ Tips for Employee Documentation



#### **The 'Great Boss' checklist: How do you rate?**

Great bosses are not born they are made. In addition, becoming a great boss requires honest self-analysis and periodic reassessments. The following checklist was designed to guide you in that analysis. Use it to take stock of your people skills. Be honest with yourself. Then, tuck it away and revisit it in six months. Ask yourself - *Are you working to maintain those strengths and abilities you already possess? Have you improved where you are weak?*

#### **Look in the mirror**

*Place a check mark in the box next to the behaviors that you feel confident you exhibit on a routine basis.*

- 1. Guide, do not control.** Do not take a completely hands-off approach, but do not micromanage either. Explain what needs to be done, but do not dictate exactly how you want it done.
- 2. Utilize employees' strengths.** All of your employees have something to offer. Identify, recognize and cultivate their specific skills.
- 3. Empower employees.** Give them the tools they need to succeed and the opportunities to learn new skills.
- 4. Trust.** Do not second-guess your employees' abilities. Believe that you hired good personnel.
- 5. Take an active interest in employees as individuals.** Inquire about their families and hobbies. Remember their birthdays. Offer condolences when necessary.
- 6. Offer praise.** Be quick to give a compliment for a job well done.
- 7. Respect employees.** Your position of authority does not excuse belittling, abusing or humiliating workers, no matter how unintentional. Check that your tone is not condescending or parental, especially when giving instructions or critiques.
- 8. Admit shortcomings and ask for help.** There is no shame in admitting to an employee that they are more skilled in a particular area than you are. Asking for help shows that you respect the employee's knowledge.
- 9. Have integrity.** Avoid a "do as I say and not as I do" attitude. Hold yourself to the same standards to which you hold employees. Give credit where credit is due. For instance, if you use an idea from an employee in a proposal you submit to your boss, give the employee credit.
- 10. Learn from your mistakes.** It is not enough to admit when you make mistakes. Learn not to repeat them. Otherwise, employees are going to consider your admissions of error and accompanying apologies as nothing more than lip service.  
Bill Gates once said, "Learning from mistakes is a key in all successful companies." However, it is always better to learn from *other people's* mistakes, rather than your own.

- 11. Don't play the blame game.** In the face of adversity, look to solve the problem, not place blame. Employees value knowing that you have their backs. That does not mean you should insulate them against deserved discipline. Just do not throw employees under the bus when they make honest mistakes.
- 12. Give employees a voice.** Whenever possible, let them have a say in decisions that directly impact them. Also, ask them for feedback. If you cannot implement their suggestions, explain why.
- 13. Listen; really listen, to what employees are saying.** Sometimes, you have to read between the lines or listen for what is *not* said.
- 14. Keep employees in the loop.** Let them know when, why and how decisions are made. Also, explain the reasons behind new policies or changes to existing policies.
- 15. Keep things in perspective.** Do not go crazy over something trivial. Ask yourself, "Will this matter in a week from now?" If not, it might be best to just let it go.
- 16. Don't waste employees' time.** Call meetings only when necessary. Have a clear agenda and be organized. Also, recognize that employees have lives outside of work and give them the flexibility to live it.
- 17. Compromise.** Meeting employees halfway goes a long way! Be careful, however, of compromising too often. If you do, employees may start to think they can bend your will whenever they want, and, in the process, lose respect for your authority.
- 18. Be blunt, but tactful.** Do not beat around the bush. Burying your message in small talk, for example, could result in the message getting lost.
- 19. Hold all employees accountable,** i.e., do not play favorites. Not only will a failure to treat similarly situated employees similarly pit them against each other, but it could also result in a discrimination claim.
- 20. Open your door, and walk out of it.** It is important for employees to know that your door is always open to them. However, be careful of waiting for them to come to you. Make a habit of walking around the department and interacting with employees in their workspaces.

**NOTE:** You should consult with your legal counsel to ensure you are in compliance.

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**ASHHRA NEWS**  
[www.ashhra.org](http://www.ashhra.org)

➤ **Our Region 5 ASHHRA Chapter Leader is:**

**ASHHRA PRESIDENT (2018-19)**

**Jamie Parsons | Vice President, Human Resources/CHRO  
Mountain States Health Alliance**  
3135 Peoples Street, Suite 303 | Johnson City, TN 37604  
423-302-3251 | [parsonsj@msha.com](mailto:parsonsj@msha.com)



**REGION 5 REPRESENTATIVE: CAN, IL, IN, MI, OH, WI**

**Karyn Batdorf | Human Resources Director, Mercy Health West Hospital**  
3300 Mercy Health Blvd. | Cincinnati, OH 45211

# ASHHRA 54th Annual Conference & Exposition September 15 – 18, 2018



To register: go to <https://s6.goeshow.com/ashra/annual/2018/index.cfm>.