

HRN NOW

The Official Publication of the New York State Society for Human Resource Management

WINTER 2006



Human Resources At a Crossroads?

Page 17

Inside:

Training on the Cheap

**Returning Soldiers Prompt
Focus on USERRA**

**The Pension Protection Act
of 2006**



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11



17



22

5 A Message From The Executive Director

By Annette Guido

7 From The Editor's Desk...

By John Lewison, SPHR

8 Officers and Board of Directors

Who's who in the society.

9 New York State Chapter Directory

Find your local chapter.

11 Returning Soldiers Prompt Focus on USERRA

For human resource professionals a firm understanding of their obligations under the Uniformed Services Employment and Re-employment Rights Act of 1994 (USERRA) will become important in managing the re-entry of these military service personnel.

By John Lewison, SPHR

15 State HR Society Holds Leadership Conference

October marks a special time for the many volunteers who give so generously of their time to NYS-SHRM. It's a time for them to gather at the state society's annual leadership conference to share their experiences in running their local chapters, and to receive the recognition they deserve.

17 Human Resources – At a Crossroads?

Companies caught unprepared have discovered that they must run three times faster than before, just to keep pace with their competition.

By Kenneth Moore

22 The Pension Protection Act of 2006

The new law has a broad impact on your company's overall retirement program.

By Rod Stortenbecker, CPC, QPA, APA

26 HR/NY Chapter Plays Host to The China National Center for Human Resources, Ministry of Personnel

By Barry Manus

28 Ask The Experts... HRNow Answers Your Questions

30 Focus On... Sheila McGuinness, DBA, SPHR

32 Chapter Buzz...

Highlighting activities, events and achievements of SHRM-affiliated chapters in New York.

By David Shair

35 New York News Briefs...

Timely reports from the state and federal levels.

37 Training on The Cheap

It is incumbent upon human resource leaders to find and create ways to deliver learning the business units need. The question now, is how? How do we plan, deliver and evaluate first-rate learning with meager resources?

By Joanne L. Smikle





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A MESSAGE FROM THE EXECUTIVE DIRECTOR

BY ANNETTE GUIDO

Executive Director

December 31st marks the changing of the guard for leadership of NYS-SHRM. Although it's a bittersweet moment, I can truly focus on the sweet taste of success that NYS-SHRM has enjoyed during these past three years of my tenure. When I took office as executive director, I challenged you to "create those moments that truly take your breath away!" Little did I realize how many of those moments SHRM chapters and the NYS Council would create.

NYS-SHRM can boast of three very successful annual conferences, where national keynote speakers were present and record numbers of attendees participated—especially this year, with the conference co-hosted by the Central New York chapter. We were proud to have CEO of SHRM, Sue Meisinger, SPHR, address one of our conferences. Participation in our NYS Leadership Conferences and National Leadership Conferences was strong as you came together for best practice sharing, growth and professional development. (See the article in this issue on October's State Leadership Conference.)

Through the state HR society's "Recognition Award for Outstanding Service to the Profession," 17 founding and current volunteer leaders who contributed time and talent to help make NYS-SHRM the solid organization it is today were recognized over the past two years. In addition, NYS-SHRM through the diligent efforts of the Buffalo chapter, hosted the Student Games, and provided financial support to the program. We launched an initiative to sponsor the Best Companies to Work For in New York program and are in the roll-out phase (see article on page xx for more information). The Superior Honor State Council Award was achieved for 2004 and 2005. We even updated our society's by-laws to be in compliance with the changes issued by national SHRM.

NYS-SHRM was represented at all Northeast Regional Council Meetings. The state society also provided input to the Management Advisory Council with suggestions and comments regarding recent issues facing the profession and participated in regional and national information surveys. The legislative

efforts enjoyed increasing numbers for our "HR Action Day in Albany" this year. As a result of the strategic planning session held in February, 2004, we have a website hosting HR issues that are New York State specific—what a resource for you! Many of your chapters received recognition as Chapter Champions through their SHRM Foundation programs. I am proud to report that the NYS-SHRM was a "Champion" as well. With your help we raised over \$2,000 at the annual conference this year.

Our partnership with JSEC, in serving as the local clearing house with HRCI for certification credits has provided high value to our members. New York moved up in the ranking of certified professionals across the country this year, too. We kicked it up a notch and are providing you with three issues of the *HR NOW*, our society's award-winning magazine. It has made for many a pleasant day as people call me to comment on the high quality of our publication.


As I look back, I'm tired, but not too tired to chair the 2007 Annual Conference and Exhibition. Mark your calendars for July 22, 23, and 24, 2007 at the Turning Stone Casino and Resort. Yes—you asked for it, you got it—we are going back next year. You can register for the conference and hotel after January 5, 2007 by going to www.nysshrm.org and clicking on the "State Conference" tab.

The NYS-SHRM State Council has "served the professional and advanced the profession" and will continue to do so. It has been an honor to serve as your executive director for the past three years. It has also been a privilege to work with the fine volunteer board members composing the state society. My sincere thanks for your support and commitment, your gifts of time and talent, and your friendships. You made my role so enjoyable! Please rest assured that NYS SHRM is on sound financial footing to move forward and achieve even more in the years ahead.

Finally, my best wishes to Robin McConnell, your incoming executive director. Robin, may your tenure be as enjoyable for you as mine was for me. ▀



It has been an honor to serve as your executive director for the past three years. It has also been a privilege to work with the fine volunteer board members composing the state society. My sincere thanks for your support and commitment, your gifts of time and talent, and your friendships. You made my role so enjoyable!

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FROM THE EDITOR'S DESK...

BY JOHN LEWISON, SPHR

Editorial Director

Welcome to the Winter 2006 issue of *HR Now* magazine, but by no means is this the “winter of our discontent.” Rather, we’re delighted to present a dynamite set of articles and columns to keep you abreast of current issues in HR and changing leadership in the society.

Featured is Kenneth Moore’s vision for the future of human resources, “*Human Resources – At a Crossroads?*” in which he discusses the fast-paced technological changes impacting us at home and around the world.

We couldn’t go to press without an article about the recently enacted pension reform act of 2006. Rod Stortenbecker, senior retirement plan consultant with The Principal Financial Group, has done a terrific job of breaking down this complex law into understandable and digestible bites. It’s a key piece of legislation that impacts nearly all corporations with retirement plans.

Another important article addresses the issues of vets returning from Iraq. The law du jour here is USERRA. The author has done a

solid job of sorting out those key sections of the law that HR practitioners need to be mindful of.

Also included in this issue is a special piece about the New York City chapter of SHRM (HR/NY), and their foray into meeting and exchanging ideas with a Chinese delegation. We’re indebted to Barry Manus, Rebecca Rosenswaig, and Ariel Boverman from HR/NY for bringing this to our attention.

Finally, we give a round of applause and accolades galore to Annette Guido, who has so successfully guided NYS-SHRM over the past three years. We wish her all the best as she relinquishes her mantle to Robin McConnell, incoming executive director. And as always, we want to hear from you, our readers, so just email us at jlewis@nysshrm.org. ▀

Happy Holidays.



We would be negligent if we didn’t give a round of applause and accolades galore to Annette Guido, who has so successfully guided NYS-SHRM over the past three years. We wish her all the best as she relinquishes her mantle to Robin McConnell, incoming executive director.

MISSION STATEMENT – NEW YORK STATE SHRM

The mission of the New York State Society for Human Resource Management, Inc., is to:

- Promote the educational and professional development of members in New York State through support of SHRM services
- Create value for and serve the interests of SHRM members-at-large and members of SHRM affiliated chapters in New York State
- Advance the progress and presence of SHRM to the Human Resources community in New York State through programs, conferences, and other activities
- Provide volunteer and leadership training opportunities at state, area, and national levels
- Enhance communications between national SHRM, the New York State Society for Human Resource Management, and SHRM affiliated chapters in New York State

Who We Are

The New York State Society for Human Resource Management, Inc. (sometimes called the “state council”) is your link between affiliated local chapters and national SHRM. Its structure consists of volunteer leaders, with officers elected, and committee chairpersons, functional directors, and district directors appointed by the council.

SHRM’s volunteer leadership structure links members with the Board of Directors, the policy-making body of the society. Each chapter president serves as a voting member of the state society.

Ed.

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Returning Soldiers Prompt HR Focus on USERRA

BY JOHN LEWISON, SPHR

Thousands of military reservists are returning from active duty to civilian life, their family and their jobs. For human resource professionals, a firm understanding of the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA) is crucial in managing this re-entry.

Signed into law nine years ago by President Clinton, USERRA gives employees who take a leave of absence for active military service certain statutory rights – not only to reemployment, but also to retirement, wellness and other benefits. Some questions HR practitioners must address: Do we have to give them back their old job? Must we follow the law if the employee had volunteered? For what reasons might coverage under our group health and pension plans be dropped?

Here's what you need to know.

Reinstatement

While returning employees have some obligations under the law too, employers have a network of obligations to understand. Generally, USERRA requires that if the military leave of absence is less than 91 days, upon return an employee must be reinstated to the position he or she had or would have had if continuously employed without such interruption. According to Jackson

■ USERRA — continued on page 12

Lewis Schnitzler & Krupman (a national law firm representing management in workplace legal matters), an employee called to military duty also must be offered the same seniority, rights and benefits upon return to work as if he had remained continuously employed.

If the leave of absence is more than 90 days, then the returning employee also must be reinstated to the position he would have had before being called to military service, or to “a position of like seniority, status, and pay” that the employee is qualified to perform.

Under limited circumstances, a company can refuse to hire back an employee following his discharge from military duty. These include when the company’s circumstances have changed so much as to make reemployment “impossible” or “unreasonable,” or when placement of the veteran into another position would impose an “undue hardship.” For example, a down-sizing that legitimately would have eliminated the employee’s position might be a valid reason for denying reemployment. However, relying on these exceptions could be tricky, especially if patriotism is an issue.

USERRA is not very forgiving about organizations filling a returning veteran’s position with someone else. The rights of a returning employee supersede the rights of anyone who may have been hired to replace him – even if that replacement employee ends up with no position at all.

Protection from Discharge

Employees returning from military service also are protected from discharge, except for cause, for a period of time depending on the length of military service. For example, if the military leave was for 180 days or less, then the employee is protected against discharge for a period of six months. If the military leave was for more than 180 days, then this protection runs for a year.

Timing of Reemployment

After discharge from military service, employees must submit an application for reemployment, or report to their jobs within a specified period of time. For example, if the military leave was between 31 and 180 days, then the employee has 14 days in which to return to work, or to submit an application to his employer. For military service beyond 180 days, he has up to 90 days to apply for reinstatement.

An employee whose military service was for more than 30 days may be required to submit documentation that the application for reemployment is being made in a timely manner, and that his discharge from active duty was honorable or general. However, reemployment can not be refused just because the documentation is not readily available.

If the veteran is hospitalized as a result of military service, then the deadline for applying for reemployment can be extended (with some exceptions) for up to two years.

Vacation/Wellness Benefits

Companies cannot require employees to use earned vacation while performing

military duty, although reservists may do so if they wish. In addition, if your company has a medical benefits plan (e.g. hospital, major medical, prescription), it must be provided to those on military leave under the same terms and conditions as when they were actively employed, if military service is 31 days or less.

When the call-up is for more than 31 days, the employer must provide those on military leave the same benefits that generally are provided to employees of similar status who are on an approved non-military leave. For example, if your company provides 12 weeks of medical coverage to employees on a personal leave of absence, then it must provide the same coverage for reservists on a military leave of absence. If the employee has not returned from military duty by the end of the maximum leave period, then coverage may be dropped.

Dependent Benefit Coverage

If, during the personal leave of absence, coverage also would be provided to eligible dependents of the employee, then this same coverage must be extended to the dependents of those called to active military duty.

Benefit Termination and COBRA

According to Gallagher Benefit Services (an insurance agency and employee benefits consulting firm based in Itasca, IL), USERRA requires that for medical, hospital, dental, vision and prescription drug coverage, optional continuation must



USERRA is not very forgiving about organizations filling a returning veteran’s position with someone else. The rights of a returning employee supersede the rights of anyone who may have been hired to replace him.

be offered to reservists and dependents in a like manner as under the Consolidated Omnibus Budget Reconciliation Act (COBRA). This means that companies need to provide the same COBRA notices they normally provide to qualified beneficiaries. Although plans exempt from COBRA under the small employer exception aren't required to follow these COBRA notification requirements, it is recommended that you do so, anyway.

Reservists and dependents may choose to continue their health coverage under a group medical plan, at their own expense, for up to 18 months. Further, they can't be required to pay more than 102 percent of the full premium under the plan(s) determined in the same manner as under COBRA. For those companies not covered by COBRA, reservists and their beneficiaries still are entitled to the lesser of 18 months of coverage, or until the day following the date on which the reservist fails to apply for, or return to employment upon completion of their active military duty.

CHAMPUS

Under the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS), reservists receive immediate medical coverage through the military, and presuming active duty continues for at least 30 days, the spouse and eligible dependents also receive immediate coverage. A company cannot

discontinue medical coverage just because the employee now receives health coverage as an active member of the armed services.

Retirement Benefits

Time served in military service, under USERRA, must be counted as credited service with the organization for both vesting and benefit accrual purposes for defined benefit and defined contribution plans. However, this only applies if the veteran is reemployed within the time period allowed under the law (see above). Where employees are required to make deferred contributions to their 401(k)/403(b) plans in order to receive a company's matching contribution, the returning veteran has up to three times his/her total service period (not to exceed five years) after being reemployed to make up missed employee contributions, according to Steve Bernstein an attorney with Fisher & Phillips (a law firm in Atlanta, GA.). Says Bernstein, the company need only make matching contributions to the extent that the reemployed military member makes up his employee contributions (i.e. elective deferrals) to the plan.

USERRA Rights are Cumulative

The protection of rights guaranteed military reservists called to active duty under USERRA is cumulative for intermittent pe-

■ USERRA — continued on page 14

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riods of military leave of up to five years. But there are many exceptions to this limitation, so check the Act for details.

Salary while on Active Duty

The law makes no distinction between employees volunteering for military service and employees ordered (called up) to serve, and the law does not require firms to pay employees while on military leave. However, according to Watson Wyatt Worldwide (a benefits consulting firm), about 60 percent of employers recently surveyed said they intend to provide full pay to those serving in the military, minus their military pay. Many companies have military leave policies that make up part of the difference between military pay and the employee's regular pay rate.

The "Escalator Principle"

USERRA also has something called the "escalator principle." A key concept in federal veterans' reemployment legislation, the

More information can be obtained from the Department of Labor website (www.dol.gov/elaws/userra0.htm), the Society for Human Resource Management website (www.shrm.org), Jackson Lewis Schnitzler & Krupman (412-232-1156), Proskauer Rose (212-969-3000), Fisher & Phillips, LLP (404- 231-1400), Gallagher Benefit Services (630-773-3800).

zone during a military conflict. According to Stan Schair, Esq., (Bond, Schoeneck & King, PLLC), the new law (Section 202-1 of the Labor Law of New York State) is effective immediately. It allows military spouses in your employ up to ten days of unpaid leave to be used when their spouse, who is a member of the armed forces, National Guard or Reserves deployed to a combat zone, is on leave. Employees who work more than 19 hours a week are covered, but independent contractors are not. The new law also has a retaliation clause, so be careful.

The above highlights some of the requirements companies need to understand as military service personnel start returning to private life. However, given the complexities of the law, and the widely varying kinds of benefit plans and employment policies that companies have, we suggest you consult an ERISA attorney or legal expert to be sure that any specific actions you take are in compliance. ▶

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"escalator principle" requires that a returning service member step back onto the "seniority escalator" at the point the individual would have occupied had he remained continuously employed with the company. According to the U.S. Department of Labor, the position need not be the same job that the person previously held. For example, if the returning veteran would have been promoted (with reasonable certainty) had he not been called to active duty, then he would be entitled to that promotion upon reinstatement.

New York Law for Military Spouses

Finally, if your company operates facilities in New York State, a new law was just passed relating to leaves of absence for spouses of members of the military deployed to a combat



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Robin McConnell (right), NYS-SHRM's incoming executive director honors Annette Guido, out-going executive director, with a special award for a job well done



Conference participants listen attentively to Guido

State HR Society Holds Leadership Conference

October marks a special time for the many volunteers who give so generously of their time to NYS-SHRM. It's a time for them to gather at the state society's annual leadership conference to share their experiences in running their local chapters, and to receive the recognition they deserve.

So, on October 14, 2006, volunteers at the state level and throughout our 17 local SHRM-affiliated chapters, came to Albany. "The conference is a great opportunity for chapter leaders from around the state to learn and exchange their ideas about chapter leadership," says Annette Guido, Executive Director. Mary Ellen McLean, SPHR, leadership conference chair, agrees. Said McLean, "We set up this one-day leadership conference each year so that chapter volunteers can learn firsthand about the many initiatives at the state level, and to give an opportunity for local chapter leaders to share their concerns as well as their successes."

The conference, facilitated by our "very own" Susan Post, SPHR, CAE, Northeast Regional Director for SHRM, kicked off with key-note speaker Bruce Boguski who served up an empowering address on finding your zone for peak performance. Boguski is an author, motivational speaker, columnist, and

media personality well known for his ability to inspire others to "do the impossible." He certainly did that and then some at the conference. Other conference activities included special breakout sessions on each of the six core leadership areas of Workforce Readiness, SHRM Foundation, HR Certification, Diversity, Governmental Affairs, and College Relations.

The state leadership conference also is a time to step back and recognize individuals who have played key roles in NYS-SHRM. This was the second annual recognition award for outstanding service and dedication to the state HR society. Seven volunteer leaders received this year's award. They are:

- **Barbara Aimone**, SPHR, for her service to the state conference, as well as her participation as chapter president;
- **Diane Lustenader**, SPHR, for her service to NYS-SHRM and the state conference, her role as Certification Chair, and her launching of the White Paper Initiative (see Fall '06 issue of HR Now);
- **Ned Hirt**, PHR, for his role as district director of the North Country chapters;
- **Philip Mazza**, for his contribution in leading the charge for a very successfully '06 state conference;
- **Richard J. Grossi**, for his successful contributions as NYS-SHRM/JSEC liaison;

■ leadership conference — continued on page 16



Jill Hamilton (left), SPHR, receives award from Annette Guido, Executive Director, for serving as society treasurer.



Mark Wasiewicz (right), SPHR, President, PANY Border Chapter talks with Annette Guido, Executive Director.



Philip Mazza (right) receives award from Annette Guido, Executive Director, for his dedicated work on the state conference.



Diane Lustenader (left), SPHR, receives award from Annette Guido, Executive Director, for her role as Certification Chair.



Rick Grossi (left) receives award from Annette Guido, Executive Director, for his role as State JSEC Director.



Sheila McGuinness (left), SPHR, receives award from Annette Guido, Executive Director, for heading up the society's SHRM foundation initiative.



Susan Post, SPHR, CAE, conference facilitator addresses participants.



Key note speaker Bruce Boguski delivers an inspiring address on self-empowerment to attendees.



Conference participants enjoy lunch before heading back to afternoon sessions

- Sheila McGuinness, SPHR, for the record contributions her leadership has provided to the SHRM Foundation (see "Focus On..." page xx); and,
- Jill Hamilton, SPHR, for her role as treasurer of NYS-SHRM, and her assistance with the state conferences.

Said Guido in announcing the recognition awards, "It is not often we get a chance to say a genuine 'thank you' to those volunteers who have served NYS-SHRM with such dedication, loyalty, and competency."

Finally, in addition to handing out well-earned volunteer awards, Guido was honored during this year's leadership for her outstanding stewardship of the state HR's society for the past three years. Her term ends December 31, 2006. The award was made by Robin McConnell, NYS-SHRM's incoming executive director, who praised Guido for her insightfulness, creativity, and leadership. Said McConnell, "Annette has taken NYS-SHRM to new heights, and we are very much in her debt." (See photo of McConnell giving award to Guido.) We'd like to add our thanks as well for Annette's support for *HR Now* magazine, and the many contributions she has made to NYS-SHRM.

If you want to get involved, the place to start is with your local chapter (see page 9 for chapter listing). ▀

Editor



Human Resources At a Crossroads?

BY KENNETH MOORE

At some point in the past 15 years, the economic gas pedal hit the floor, and global business accelerated to warp speed. Theories abound about what started it all: the fall of the Berlin Wall, the dissolution of the Soviet Union, the exponential increase in the power of the Internet, the dot-com bubble and burst, 9/11, the war on terrorism, Enron-type scandals, and increased worldwide demand and competition for oil.

Take your pick or add your own. But companies caught unprepared have discovered that they must run three times faster than before, just to keep pace with their competition.

Virtual Management

This global business mindset, along with rapid advances in technology, have led to—as New York Times author Thomas Friedman puts it—the “flattening of the world.” Now you can have your office in Albany, NY, and manage team members located in Salt Lake City, UT, as well as in the Middle East, Asia, South America and Africa. With virtual management now a reality, and faced with mounting pressures from these lower cost providers, company leaders have been forced to review their business operations and rethink their business models—just to sustain their business, let alone grow it. The major departments within the organization have had to change, as well. Functions such as R&D, legal, production, and maintenance must now undergo constant cost/benefit analysis to justify their existence as an organizational resource—with outsourcing, or even eliminating selected disciplines, an often considered possibility. Indeed, certainly within publicly traded companies, CEOs routinely make decisions that a decade ago may have appeared totally unacceptable.

■ crossroads — continued on page 18

HR Not Immune

Human resources has not been immune to these changes. Previously, internal HR departments fulfilled vital administrative functions, including EEO and other regulatory compliance reporting, describing the employment process, training employees, administering compensation and benefit programs, and writing policy and procedural handbooks. But when budgets became squeezed by competitive pressures, HR—considered administrative overhead by corporate leaders—was an easy target. So for example, instead of training the sales and marketing staff to identify new markets, and instead of training the production staff to improve operational efficiencies, companies simply eliminated the training department, or outsourced the work at considerable short term cost savings.

The decision to outsource HR administration was made easier because far too many HR executives did not align their department's performance to factors critical to the organization's success. How would a new diversity initiative impact the company's net income? How would a proposed health care contract or compensation program impact the company's ability to competitively price its products and services? What was really at stake

when the recruiting team screened or recommended someone to lead the accounts receivable department?

Aligning HR to Corporate Goals

With the pressure on for HR leadership and staff to justify their existence in quantitative terms, bottom line questions like these now must routinely be asked, and a stronger understanding of basic business must be developed. Here are some suggestions to help link HR initiatives to the performance metrics established for your company:

❶ Learn to read and interpret basic financial performance data.

This is the language of business. Whatever your job in the organization, you must be fluent in this language, or your arguments will be less persuasive at the decision-making table. You don't have to be a CPA to understand that a current ratio (current assets divided by current liabilities) of 0.85 means that you have 85 cents available to pay a dollar's worth of debt, and obviously is not good. But knowing such a fact does lead to articulate strategy sessions aimed at moving that particular ratio into the positive numbers, or at least in the right direction. If you are one of those people who are "number challenged," there are books just for you that explain financial statements in easy-to-understand terms. Or try the Internet, where you will find a gold mine of information about Current Ratio,

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or any other ratio important to your industry and company. It will explain what it is, how it is calculated and why it is important. You also can ask your local HR or other trade association chapter to engage a consultant who can explain financial statements to non-financially trained people.

2 Learn how the company positions itself for continuity.

Find out what the company must do to stay in business and ultimately grow the business. Robert Kaplan and David Norton, authors of the popular management book *The Balanced Scorecard*, argue that corporations and their shareholders and stakeholders can no longer evaluate their performance strictly from a financial perspective. They must measure it based on three additional perspectives:

- a) The learning and growth perspective – How do we grow our company and create improved and/or new value for our customers, clients, passengers, patrons?
- b) The internal business process perspective – Do our internal processes directly assist us in achieving our strategic focus and help us deliver our product or service to a degree that meets or exceeds our customers' expectations?
- c) The customer perspective – How are we satisfying our customers? How do our competitors satisfy their customers? How do we establish a competitive advantage with our customers?

3 Understand the critical importance of corporate relationship management.

Analyze how your company manages its relationships with the various stakeholders. Are there smooth or contentious relations with employees? Are there price wars going on with competitors? What is your company's relationship with federal and state regulatory agencies charged with overseeing your industry (e.g. OSHA, EPA, IRS). With careful deliberation, you can assign a number between one (poor) and five (excellent) to any of the categories important to your company. For example, if you examine the relationship between your company and its vendors, and determine that it is a "2," that will lead to strategy and decision-making sessions designed to move that evaluation to "3," then to "4," and then hopefully to "5".

4 Understand how your company makes money.

Why do customers buy your company's products or services? Who are your primary competitors? What are the biggest challenges to your company? HR people need to understand these business drivers in order to contribute to the success of the business. If the company is focused on the customer, then HR needs to direct much of its efforts to ensuring that that focus is realized. Carefully analyze your competition and learn what it is that you are selling. Cadillac does not sell cars or transpor-

tation solutions. It sells prestige and status. It competes with diamonds, furs and other high-end products and services.

5 Wholly integrate HR into all other departments.

Understand that human resources as a corporate function cannot exist as a stand-alone discipline. Organizations are made up of several interconnected and interdependent entities. HR must wholly integrate itself into all other functions, and its practitioners must be able to speak the language of every other department. If you expect to work as an equal partner with the company's other strategic experts, you must be able to talk to them – at their level – about their areas of responsibility. If you can, take an HR "sabbatical," and spend three to six months in production, finance, or marketing, to better understand how all of the parts fit together.

6 Focus on the flawless delivery of transactional HR work.

As you transition the HR function into a more strategic orientation, don't forget to also focus on the timely and perfect delivery of transactional HR work. Whether it is done internally or externally, payroll must be met on time, labor reports need to be produced and analyzed, benefit costs need to be monitored, and government regulatory agencies need to be satisfied. Without maintaining high standards for its own transactions, HR will lack the credibility and legitimacy it needs to champion more powerful and strategically relevant HR agendas.

7 Keep learning and promote continuing education.

Become more knowledgeable about the business you're in. Continually and forever update your skills, knowledge and abilities and those of your staff. Make continuing education a critical portion of your company's budget. Senior leaders should set an example by sponsoring and participating in professional development activities. Identify best practices in your industry and examine closely the activities of your competitors or benchmark companies. What can you learn from them? Create programs that will help all departments in your company develop operational excellence, and the flexibility to sustain and grow the company's business in the new global marketplace. ▀



About the Author: Kenneth W. Moore is the President of Ken Moore Associates, a management consulting group based in Ballston Spa, NY. He is also an adjunct professor at the State University of New York – Albany and at Union Graduate College where he teaches graduate business courses in Strategic Management. He may be reached at: kmoore01@nycap.rr.com, or by phone at 518-885-3210.



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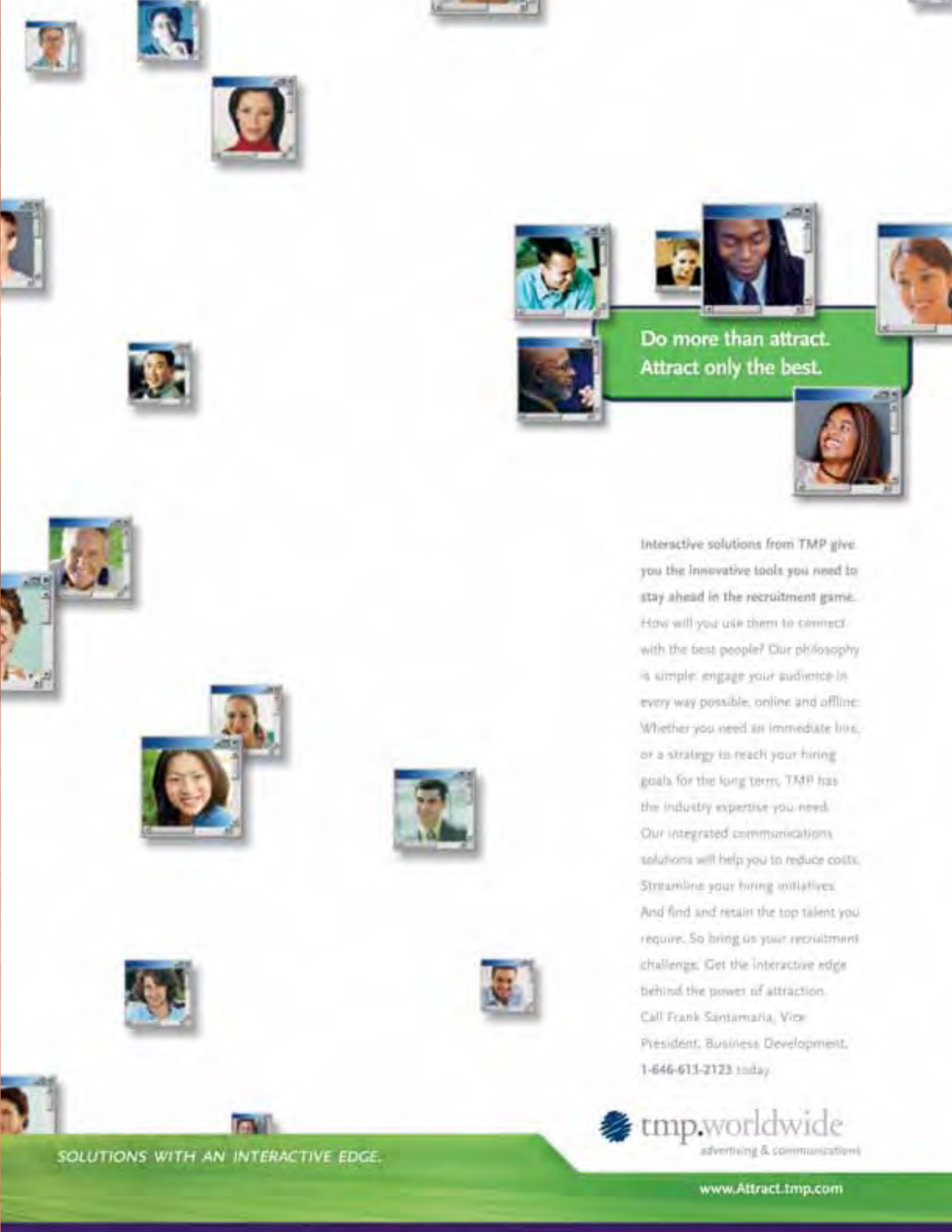
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The Pension Protection Act of 2006:

Actions You Need to Take Now

BY ROD STORTENBECKER, CPC, QPA, APA



Not since the passage of the Employee Retirement Income Security Act (ERISA) in 1974 have we seen retirement plan legislation as comprehensive as the Pension Protection Act (PPA) of 2006. The main focus of the PPA is to improve the funding of defined benefit plans to protect the Pension Benefit Guaranty Corporation and, ultimately, the U.S.

taxpayer, from bailing out failed defined benefit plans. But, the new law also has a broad impact on your company's overall retirement program. Let's focus on two of the critical topics related to defined contribution plans — automatic enrollment and investment advice — and what you need to know to help bring your plans into compliance with the new law.

Automatic Enrollment

Automatic enrollment (sometimes called a “negative election”) has been available to plan sponsors for several years. With this feature, employees are automatically enrolled in the 401(k) or 403(b) plan at a set salary deferral percentage established by the plan sponsor — usually between 3 and 6 percent of their pay. While employees can opt out of participation, automatic enrollment can be advantageous because it overcomes the paralysis and inertia that keeps many employees from enrolling in employer-sponsored retirement plans: it's easy, it provides a default investment option, and employees are automatically saving for their own retirement.

Automatic enrollment also has advantages to plan sponsors. For one, it can often help improve the actual deferral percentage (ADP) and actual contribution percentage (ACP) nondiscrimination test results to allow highly compensated employees (HCEs) to defer more of their salaries to the plan (Note: a 403(b) plan is only subject to the ACP test). Plan sponsors concerned about the level of retirement savings by their employees can encourage them to save through automatic enrollment.

Automatic deferral increases

When considering automatic enrollment, there is also another decision to be made — whether to use an automatic annual increase provision. This provision automatically increases a participant's salary deferral percentage each year (typically 1 percent each year until a certain salary deferral percentage is attained).

In addition, plan sponsors seem to have better results with using automatic enrollment (with a modest beginning salary deferral percentage, such as 3 percent), and automatic salary deferral increases together. This should help employees achieve more retirement savings and provide better ADP/ACP test results.

Plan sponsors that choose to use automatic enrollment without the automatic salary deferral increases, may, over time, find that it results in a lower overall non-highly compensated employee (NHCE) deferral percentage. Employees may simply settle for the beginning automatic deferral percentage and not increase their salary deferrals.

PPA Makes Automatic Enrollment More Appealing

Until now, many plan sponsors have been reluctant to add an automatic enrollment feature to their plans because of state payroll laws and the fiduciary issues related to default investment options, and ERISA 404 (c) protection. The PPA addressed both of these concerns.

ERISA Preemption — Congress recognized the possible conflict between individual state laws and the ability to offer this type of arrangement under ERISA, which is a federal law. States' anti-garnishment laws no longer are a concern, as long as a plan sponsor is willing to meet certain requirements, which don't seem to be too burdensome. Plan sponsors must simply provide participants with an annual notice, which is already a requirement, and use investment option defaults as prescribed by the Department of Labor. This pre-emption applies specifically to plans subject to ERISA and is not extended to other types of plans.

Default Investment Options and 404(c) — The new law directed the Secretary of Labor to issue final regulations offering safe harbor investment options for defaulted contributions within six months of enactment. Proposed regulations were released on September 27, 2006. The rules condition fiduciary relief on the use of one of three types of investment products: (1) lifecycle, targeted-retirement, or similar investment options; (2) balanced investment options; or (3) managed accounts that allocate assets among the plan's investment options.

Uncertainty of ERISA §404(c) protection may no longer be a concern as plan sponsors are now eligible to receive fiduciary relief for the investment of these contributions, provided automatically enrolled employees receive proper notice of their right to opt out of the contribution arrangement and contributions are invested in accordance with established investment default guidelines.

Notification Requirements

Plan sponsors have always been required to notify their employees of automatic enrollment. The PPA simply adds a few more requirements to the content of the notice. The notice must be provided to each participant who is automatically enrolled and has not made an election to contribute otherwise. The notice must be provided within a reasonable period before each plan year, and needs to explain the employee's rights and obligations under the arrangement. The notice must:

- provide an explanation of the employee's right to opt out of salary deferral contributions or to elect a different salary deferral percentage;
- ensure the employee has a reasonable amount of time after receiving the notice to elect a different percentage before the first salary deferral contribution is made;
- explain how the contributions will be invested in the absence of an investment election by the participant.

More specifics on the content and timing of the notice should be provided when regulations are released.

Safe harbor automatic enrollment

In addition to the changes the PPA made regarding state payroll laws and default investment options, it created a new safe harbor plan design, referred to as a Qualified Automatic Contribution Arrangement (QACA). This safe harbor plan design is similar to the current 401(k) safe harbor plan design in that it exempts the plan from the annual ADP/ACP nondiscrimination test and top-heavy testing. It allows your HCEs to defer up to the dollar limit (\$15,500 in 2007/\$20,500 for those electing the catch-up provision) each year. This is good news for those who have had to notify HCEs that either they are limited in the amount they can defer to the plan or they are receiving a refund.

The automatic enrollment safe harbor plan design isn't available until plan years beginning after December 31, 2007. In addition, the automatic enrollment safe harbor plan design does not make the 401(k) safe harbor plan design obsolete; it simply provides plan sponsors with another option.

Automatic Enrollment Safe Harbor Requirements

Unless participants elect otherwise, the default elective deferral rate under the automatic enrollment safe harbor must be at least 3 percent of pay in the first full plan year of participation, 4 percent in the second year, 5 percent in the third year, and 6 percent in the fourth year (with a 10 percent maximum).

In addition, plan sponsors are required to make either a non-elective contribution for all eligible NHCEs of at least 3 percent of pay, or match for NHCEs of 100 percent of salary deferrals up to 1 percent of pay, plus 50 percent in excess of 1 percent up to 6 percent of pay. Further, employer contributions are not required to be 100 percent vested when made, but must become so within two years.

Investment Advice

Let's move on to the topic of investment advice. This is an issue most plan sponsors have wanted Congress to address for

years. Prior to the PPA, a plan sponsor who made investment advice available to plan participants was required to prudently select and monitor the investment adviser. Some analysts believe the plan sponsor was also responsible for the advice given to the participants. There was also an issue related to a prohibited transaction if the adviser was a fiduciary to the plan and he gave advice that increased the adviser's or affiliate's compensation.

Effective for Plan Years Beginning on or after 1/1/2007

The PPA provides a prohibited transaction exemption (PTE) for “fiduciary adviser” advice to defined contribution plan participants under an “eligible investment advice arrangement.” A fiduciary adviser may be a registered investment adviser, bank, insurance company, broker dealer, and their employees, agents, or registered representatives and affiliates. An eligible investment arrangement must provide that fiduciary adviser's fees do not vary in accordance with the

investment options chosen or must use a specified computer model. Both of these arrangements require an annual audit or review of the investment advice arrangement by an independent auditor. The audit findings must be reported to the plan fiduciary, who authorized the use of the investment advice arrangement, and significant disclosure to participants is required as well. The responsibility of selecting/retaining advisers rests with the plan fiduciary.

The PPA addresses investment advice, but it may not provide the level of clarification everyone had hoped for. There are still many unanswered questions.

What to Tell Employees Who Ask?

What should you do the next time an employee asks for investment advice? The answer is the same as it was before the PPA — human resources should not tell the participant where to invest his retirement funds; it should direct the participant to the tools that have been put in place to help participants determine where to invest, tools such as asset allocation models, calculators, etc. Most plan administrators provide Web sites that have such information and tools.

Other investment options

The popularity of lifecycle investment options has greatly increased, which may reduce the demand or need for personal investment advice. In addition, many companies already offer advice through a managed account arrangement, using an independent third party to provide advice, which meets the requirements of the PPA.

Other Important Provisions of the Act

While I've spent a lot of time focusing on automatic enrollment and investment advice, I would also like to mention a few other the PPA provisions that may be important to you:

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As with all legislation, it is vital to understand the ramifications of these changes and what they mean to your overall retirement program – from general plan design issues to daily payroll and human resource activities.

- EGTRRA permanency — several of the provisions in the Economic Growth and Tax Relief Reconciliation Act of 2001 were due to expire in 2010. The PPA made these provisions permanent. Some plan sponsors may want to consider adding the Roth 401(k) plan provision now that it will still be available after 2010.
- Defined benefit plans — many provisions related to funding levels, deduction limits, benefit restrictions, etc.
- Legitimized cash balance plans — addressed whipsaw, age discrimination and calls for the use of a market rate of return.
- Nonqualified plans — the funding status of your defined benefit plan can now limit your ability to fund an executive nonqualified plan.
- DB(k) — will allow a smaller employer the option to combine its 401(k) plan and defined benefit plan into one plan. DB(k) isn't available until 2010.

While the PPA made comprehensive changes to retirement plans, many of these changes should be “positives” for plan sponsors. However, as with all legislation, it is vital to understand the ramifications of these changes and what they mean to your overall retirement program -- from general plan design issues to daily payroll and human resource activities. Therefore, we encourage you to discuss the new PPA -- the impact it may have, and the opportunities it presents for your retirement program -- with your consultant, actuary, legal counsel or other professional. ▀



About the Author: Rod Stortenbecker, CPC, QPA, APA, is a Senior Retirement Plan Consultant in Retirement Investor Services at the Principal Financial Group. He has extensive experience with the design and implementation of defined benefit, defined contribution, non-qualified and ESOP plans. He serves as a technical contact for our sales and administration areas regarding plan design and plan operational issues. He may be reached at Stortenbecker.Rod@principal.com; Or, for more information contact Terri Hale at Hale.terri@principal.com.

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HR/NY Chapter Plays Hosts to The China National Center for Human Resources, Ministry of Personnel

BY BARRY MANUS



On October 27, 2006 the Human Resources Association of New York (HR/NY) international Special Interest Group (SIG), in conjunction with ORC Worldwide, welcomed the China National Center for Human Resources Ministry of Personnel, P.R. China, during their U.S. tour to learn about human resources practices in America. The meeting was hosted by Rebecca Rosenswaig (member of the HR/NY international SIG, and director of ORC Worldwide); Ariel Boverman (co-chair of the HR/NY international SIG); and Barry Manus (immediate past president of HR/NY, and president of BRAVO HR Services).

HR/NY International SIG receives several requests each year from various Chinese Ministries to visit New York and meet our members to share information and experiences. This group and their leader, Li Jian Min, Deputy General Director, specifically requested information sharing on all aspects of U.S. human resources, including an overview of human resource fundamentals, employment law, union environments, and in particular, the “secrets” of executive recruitment.

Rebecca Rosenswaig presented a comprehensive overview of HR, starting with her own experience. She then discussed



some of the laws impacting the HR field, and how HR professionals become an integral part of every aspect of the corporate community. She covered global, cultural, economic and political influences, and the different types of organizations with their unique policies and cultures. Throughout her presentation, Rosenswaig illustrated the key role HR plays in organizations.

Barry Manus presented topics specifically requested by the delegation. These included the “art of head hunting,” sourcing new hires, unionized workers, and of course, an overview of HR/NY and its role in the New York human resource community. The topics most interesting to the Chinese delegation were recruiting, sourcing executive talent, and use of the Internet as a recruitment tool – all processes in which the Chinese are trying to gain experience. The delegation seemed awed at the breadth of responsibilities HR professionals have, and the issues in which we get involved. We learned that much of what HR does in China is staffing management. The delegation was provided with information from SHRM’s new affiliate office in Beijing, and the delegates were enthusiastic about connecting with SHRM in China.



The entire session was presented through two translators; one was Lulu Zhou, who was engaged by FCC USA, the tour coordinator; the other translator traveled with the Chinese delegation. They did an excellent job of listening carefully and translating the presentations. Also participating in the presentations were members from the HR/NY international SIG: Safina Hasan, Audrey Blauner – Real Media Inc., Janet Slavinsky – Real Media Inc. ▀



About the Author: Barry Manus is the immediate past president of HR/NY and president of his own firm BRAVO HR Services, an outsourcing firm. He can be reached by email at barrym@bravohrservices.com.

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Ask *the* Experts...

Readers are invited to submit their questions about human resource practices and employment law to HR Now, where experts in their fields will provide timely answers. Email your questions to the editorial director at jlewis@nysshrm.org.

Q Some of our programmer staff, who are classified as non-exempt, must be “on-call” during weekends and at night. That means that if we call them on their cell phones or beepers we expect them to come to work. Is the time spent “on call,” i.e., waiting for a potential call compensable time?

— Ava S., New York City

A It depends. The FLSA requires employers to compensate workers for on-call time when such time is spent “pre-dominantly for the employer’s benefit.” This test was first used by the U.S. Supreme Court in *Armour & Co v. Wantock*. In a companion case, the Supreme Court stated that determining the compensability of on-call time involves a fact-specific case-by-case analysis (*Skidmore v. Swift & Co*). While no single factor determines the outcome of such an analysis, certain facts traditionally have influenced the courts in their review of employers’ on-call policies including: terms of the employment agreement or policy; physical restrictions placed on employees while on call (e.g., extent to which employees are free to do what they want or go where they want while on call); maximum period of time allowed by the employer between the time the employee was called and the time he/she must report back to work (the shorter the required time to return, the more likely it will be of concluding the on-call time is spent primarily for the employer); percentage of calls expected to be returned by the on-call employee; frequency of calls during on-call periods; uses of the on-call time by the

employee; and disciplinary action taken against employees who fail to answer calls.

Q Several employees have complained that they received personal letters via our company’s regular mail system (not e-mail) that had been opened by someone else in our company. Can other employees or supervisors open and read personal mail sent to employees?

— Rose H., Queens, New York

A It is somewhat unusual for employers to expressly permit employees to have personal mail delivered to them at work and/or read personal mail at work. This would only encourage employees to read personal mail on Company time. If the employer does allow personal mail to be delivered at work, we question if there is a legitimate business reason to open personal mail except possibly where there are security issues or where there is some evidence that the mail is being used for inappropriate and/or unlawful purposes. That said, the issue involves an expectation of privacy. Thus, we suggest adopting a specific policy that notifies employees that the Company has the right to monitor and/or open all mail sent to it, that all mail delivered to the Company is subject to such inspection and employees have no right to privacy for any mail delivered to the Company. These policies are particularly important with respect to electronic communications such as e-mail although we understand that is not at issue here.

Q We just terminated an employee and subsequently learned that he damaged company equipment through his own negligence. My boss wants to deduct the cost to repair the damage from his final paycheck. Is this legal?

— John L., Westchester County, NY

A No, this practice would violate the New York Labor Law which states, among other things, that deductions from wages are only permissible when required by law or authorized in writing by the employee and for the employee's benefit. Most states have similar provisions regarding deduction from wages although it would be worth checking if you do business outside of New York.

Q *Our Company is in the process of going through a reduction in force. One of the positions that has been selected for elimination belongs to an employee on FMLA leave. Can we still eliminate the position?*

— Jill H. Newburgh, NY

A Generally yes. The majority of courts hold that an employer may deny reinstatement to an employee on FMLA leave if the employer can show that it would have discharged the employee even had he/she not been on FMLA leave. Of course, as with any reduction in force, the Company should be able to clearly describe and document the non-discriminatory factors used in selecting the targeted positions.

Q *We have an employee who's requesting a personal day off for religious observance. He is salaried and has exhausted all vacation and personal time. Are we required to give him the day off?*

— Vanessa F., NY

A You should provide a reasonable accommodation for his request for time off as an unpaid leave. An employer cannot discriminate against an employee on the basis of religious beliefs unless it shows that it cannot reasonably accommodate his religious needs without undue hardship on the conduct of its business. It is highly unlikely that a court would consider a request for an unpaid day off as unreasonable. Thus, unless you are able to clearly demonstrate an actual undue hardship to the business by allowing the unpaid day off, you should provide him with the day off as unpaid leave as a reasonable accommodation. ▸



About the Author: *HR Now* is indebted to Stanley Schair, Esq., a member of the law firm of Bond, Schoeneck & King, PLLC, and resident in its New York City office. A core practice of the firm is labor, employment and benefits law, representing management exclusively. Schair can be reached at 646-253-2324, or by email at sschair@bsk.com.

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Focus on...

Sheila McGuinness, DBA, SPHR,
NYS-SHRM Foundation Director



Each issue of HR Now focuses on a key volunteer leader of NYS-SHRM.

HRN: Sheila, thank you for agreeing to interview with us. Let's start off with your background. Where did you grow up, what college did you attend, and what organizations have you worked for?

McGuinness: First, let me thank HR Now for the chance to talk about the volunteer role I play in the organization. To answer your questions, I was born in the Bronx and grew up in Mahopac, NY. After I graduated from high school, I went to Pace University and earned my Bachelor's degree in business education. I later returned to Pace to earn my MBA with a human resource concentration, and then went to Nova Southeastern University in Ft. Lauderdale, FL, and earned my doctorate in business administration with an HR concentration.

HRN: How did you get into the HR field?

McGuinness: When I graduated with my bachelors degree, my intention was to teach in a high school, but at that time there were no job openings for high school business teachers. I signed up with Kelly Services as a temp and was assigned to cover a maternity leave in the personnel department at the New York Power Authority's Indian Point plant. Eventually I was hired and was promoted to training specialist, and that's when I decided to pursue a career in human resources.

HRN: Interesting. Tell us about your current role?

McGuinness: Currently I'm the director of performance improvement at Green Chimneys Children's Services, where I oversee both the HR and QI functions. Green Chimneys is the nationally renowned non-profit organization recognized as the leader in restoring possibilities and creating futures for children with emotional, behavioral and learning challenges.

HRN: Is there anything you're especially proud of at Green Chimneys?

McGuinness: As the head of HR, I'm able to get involved in supporting and enhancing the goals of the organization. In 2005 our company was honored with the New York State Psychologically Healthy Workplace Award, and in 2006 we won the first National Psychologically Healthy Workplace Award from the American Psychological Association.

HRN: Two things to be proud of! What is your charter or mission as SHRM Foundation director?

McGuinness: The SHRM Foundation maximizes the impact of the HR profession on organizational decision-making and performance by promoting innovation, education, research, and the use of research-based knowledge. As the NYS-SHRM Foundation director, I represent the interests of the SHRM Foundation and its activities to the state.

HRN: Anything else?

McGuinness: I'm also responsible for educating the chapters and the state council regarding the purpose and ongoing activities of the SHRM Foundation. I encourage chapters and the state council to contribute financially to the SHRM Foundation as a show of support for the human resources profession, and advise and update the state council and chapters of the Foundation's activities and fund-raising needs. This past year, NYS-SHRM was very active in the support of the Foundation's Silent Auction fundraising efforts, which raised \$43,000.

HRN: That's quite an achievement. What other volunteer positions have you held?

McGuinness: My first volunteer position at the local level was as newsletter chair for the Westchester HR Management Association. I've also held the positions of college rela-

tions and chapter president. I'm currently the NYS-SHRM Foundation director and the Westchester SHRM Foundation chair.

HRN: *What would you tell a new graduate to encourage them to enter the field?*

McGuinness: Through the years and with the leadership of SHRM, the HR profession has really grown into a truly respected profession. HR is an essential function within all organizations, and I think the profession has the most diversity of duties. There are opportunities and challenges for all disciplines. For those with analytical abilities, compensation and benefits is a rewarding sector. For those who enjoy counseling and advisory functions, employee and labor relations is a good fit.

HRN: *How do you see your role as Foundation Director evolving?*

McGuinness: The Foundation funds research, publications and education to advance the HR profession and enhance the effectiveness of HR professionals. This research has a direct and practical impact in advancing the HR profession. Examples are the highly acclaimed book, *Making Mergers Work: The Strategic Importance of People*, and the new DVD "Fueling the Talent Engine; Finding and Keeping High Performers."

HRN: *Has your volunteer role become more complicated with the organizational changes at national SHRM?*

McGuinness: The staff at the SHRM Foundation are exceptional. They have made my role very easy. They provide support and information and are available when I need them.

HRN: *Are there activities or events where you think the state HR society could be more effective in helping its members and local chapters?*

McGuinness: While there are always areas in which our state HR society could be more effective, I would like to focus on some of the wonderful things that are already happening now. For example, *HR Now* magazine, which is a relatively new endeavor, is a wonderful way to reach out to all our members – especially those who are unaffiliated with local chapters-- so that they can better understand what is happening within the profession at the state level.

HRN: *Thank you. We never turn down a good compliment. What else?*

McGuinness: Other events such as our state conference, the recent state leadership conference (see the article about the leadership conference elsewhere in this issue), the introduction of the core leadership areas is important, and next year's legislative visit to Albany are prime examples of what we're doing right. I also think the state has been effective in supporting and enhancing the profession. The

state's educational initiatives such as the State White Papers, and encouragement and support of certification on the local level, have been instrumental in advancing the profession in New York.

HRN: *How do you see the state HR society's role in promoting the profession?*

McGuinness: I see NYS-SHRM's role as providing a forum to share HR issues facing our members, especially at the local level. I think some of the work on white papers that Diane Lustenader, SPHR, has done and continues to do is one example. Focusing on timely issues, such as the flu pandemic and changes in NYS laws, are essential for keeping the HR professional up to date on current issues.

HRN: *Anything else?*

McGuinness: Yes. The core leadership areas are key to promoting the profession and the professional. Each core leadership area focuses on a particular aspect of HR and provides members with an opportunity to participate and share ideas.

HRN: *One last question: What made you get involved in volunteering for SHRM?*

McGuinness: Like so many other volunteers have said, I got involved because I was asked. As I continued in various volunteer positions, it became evident that there was a commonality of all the volunteers -- and that was a passion and pride in their profession. The enthusiasm of the other volunteers is infectious, and becomes something you just want to be a part of.

HRN: *Is there anything else you'd like our nearly 14,000 members to know?*

McGuinness: Yes. Get involved today. Consider how you can contribute to your profession as volunteers. What are your talents? This profession is only as strong as we make it. Even if your time commitment is limited, both you and the profession can benefit.

HRN: *Thanks Sheila. I am sure our members have a better understanding of the key role you play in the NYS-SHRM. ▀*

Chapter Buzz...

BY DAVID SHAIR



This column highlights activities, events and achievements of SHRM-affiliated chapters around New York State. Contact information for your nearest chapter can be found in the Chapter Directory on page 9.

ALBANY

(Capital Region Human Resources Association)

With a Hudson River cruise in June, the chapter celebrated it's 60th birthday. President Jim Amanatides, SPHR, assured us that the occasion was "all play." Included was the annual business meeting with volunteer recognitions, and the induction of 2006-2007 officers and board members.

September saw the kickoff of the Leadership Program. Thirteen candidates were selected based on "a rigorous application process," according to Amanatides. The program consists of four one-half day sessions (September through December) to review leadership responsibilities within the chapter. Graduation ceremonies will be held in January. The Student Chapter is developing a similar HR mentoring program.

November featured a Legal Update Workshop, as well as a dinner meeting on "HR's First Line of Defense." December's meeting was on HR metrics. A Diversity Award is being planned, with October as the target date for announcing the winners.

Finally, kudos to Jim for increasing chapter membership by 22% over the past two years.

BINGHAMTON

(Southern Tier Association for Human Resources)

"Stress Reduction" was the featured presentation at the November dinner. Chapter members were told how to identify and eliminate causes of stress, and how to use time efficiently, set goals and increase positive language. The annual legal update and a meeting on "Emergency Preparedness" were both well attended, according to president John Sassani, SPHR.

BUFFALO

(Buffalo Niagara Human Resource Association)

The chapter kicked off its fall programming with a full-day seminar on "Maintaining a Work-Life Balance" for HR professionals, business owners, and managers seeking to improve performance. President Jon Helmin, PHR, arranged for a breakfast briefing on "Employee Retaliation Claims," including strategies for avoiding claims, best practices, and defending against such claims.

ELMIRA

(HR Assn of Twin Tiers)

Alternating breakfast and luncheon meetings continues to be successful, says president Dan Archambeault. "We seem to draw some new faces at the breakfasts as they often are unable to attend luncheons due to location." After a two-month summer break, the fall season kicked off with a breakfast devoted to health savings accounts and health enhancement accounts. The annual full-day conference at Corning Community College was October's highlight. "HR - The Future Revealed" was co-sponsored by the Twin Tiers HRA and the Community College's Career Development Center. Goals for the new year, says Archambeault, include increasing membership by at least 10% and starting a student chapter.

LONG ISLAND

(SHRM-Long Island Chapter, Inc.)

This Superior Merit Award Chapter is setting a rigorous schedule for itself, says president Leslie Perri. The chapter plans to have seven dinner meetings, two breakfasts, along with its annual all-day conference in April or May. The chapter participates in an online benchmark salary survey for SHRM's tri-state New York metro area. A customized LI benefits survey also is in the works.

The theme of October's dinner meeting was "WorkForce 2020-Looking Backward and Moving Forward." A panel provided the historic perspective on LI workforce availability and suggested preparations for year 2020.

ITHACA

(HR Assn of Tompkins County)

Creative thinking is responsible for some unique chapter programs and topics. President Judith Drake, PHR, says that the chapter will continue its joint sponsorship with the Tompkins County Community Reading Circle on these presentations. Discussion of "The Power of Thinking without Thinking" by Malcolm Gladwell centered on the impact of "fleeting moments" and their effect on diversity in the workplace.

Identity Theft was the November presenter's topic. The safety of company information and what to do if files are stolen were highlights of the session, according to president Drake. As an employer, what are your obligations to employees in such a situation?

Other meetings centered on “The ADA” and “Emerging Trends in the Labor Force.” Joanne Conley, a consultant in employment law, strategic planning and leadership development, spoke on problems that can develop in the workplace between the different generations of employees. A most enlightening discussion.

JEFFERSON/LEWIS COUNTIES (North Country HR Association)

“We have started another great year with a membership total of 50, matching our highest ever,” president Gil Pearsall proudly proclaimed. “Nearly half are national members.” Jefferson-Lewis counties are home to mostly small companies, he explains, without anyone in an HR position. That does not stop him and current members from “working hard to recruit more members.”

Programs on preparing for a pandemic flu season and establishing an early-return-to-work policy were well-attended. Ignoring size, the chapter is working on a one-day HR seminar at a NYS northern resort in June. A number of outstanding expert guest speakers have been recruited. Pearsall plans to send out brochures to chapters throughout the state when the program has been solidified. Assistance from other chapters would be welcomed.

MIDDLETOWN (Mid Hudson Valley Chapter)

On April 13, 2007 the chapter will co-sponsor a full-day conference with the Hudson Valley Labor and Employment Relations Association at Marist College in Poughkeepsie. The topic: “The Changing Employment Relationship.” President John Fontana and Amy Hagerty, PHR, invite you to visit the website for details (www.mhvshrm.org).

NEW YORK CITY (Human Resources Association of NY)

The chapter kicked off its “Refer-a-Member” contest on October 1. Through December 6, members who recruit paid new members could win prizes such as a gym membership, a gift basket or museum tickets. The prizes will be raffled off at the annual evening holiday party on December 13th. Among other events on the chapter’s agenda were an all-day legal/legislative seminar; a November breakfast on “Cultural Diversity: Moving Beyond Awareness to Inclusivity;” and a session on “Strategies for Success for Women with Global Assignments.”

Formal job descriptions for board and officers are being drafted, under the watchful eye of president Lorri Zellman, using SHRM templates.

POTSDAM (St. Lawrence Valley HR Management Assn.)

President Suzan McDermott is nudging the chapter into a relationship with local businesses beyond the confines of HR. “Some interesting presentations are being planned,” she notes. For example, updated legal information on the new military

spousal law has been explored (see article on “USERRA” in this issue), as well as legal changes in long-term insurance.

A local business EXPO, planned and sponsored by the chapter, is on the agenda for 2007. Partnering with the St. Lawrence County chamber of commerce for the event is being explored, “This is a wonderful nurturing opportunity for our chapter,” McDermott emphasizes.

A student chapter at Clarkson University meets every other Tuesday. Speakers will cover a variety of topics important to human resource professionals.

POUGHKEEPSIE (Mid-Hudson Human Resource Association)

Chapter president Amy Hagerty, PHR, announced recently that the chapter website “is up and running and “it looks great!” November’s meeting on “Behavioral Interviewing” was presented jointly with the student chapter at SUNY-New Paltz. A campaign to corral new members in the community started in October and peaked at the annual December social event.

ROCHESTER (Genesee Valley Chapter)

“I am pleased to announce publication of a new book Understanding E-Body Language: Building Trust Online written

■ chapter buzz — continued on page 34

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by chapter member Robert Whipple,” said chapter president Fernan Cepero. “Anyone who uses e-mail to communicate will find this book chock full of wisdom about how to reduce frustration and misunderstandings when communicating online,” he stated.

A full program calendar for 2006-2007 was posted on the website by September 2006. Half a dozen new sponsors have been signed up, including AARP’s New York State office. Inductees in the chapter HR Hall of Fame for 2006 included Eastman Kodak and Bausch & Lomb, as best companies for diversity.

Cepero also announced the 2007 Human Executive of the Year award. It will honor someone from the Rochester area “...who provides exceptional leadership within the organization, has a demonstrated track record of driving innovative HR programs, and has a significant role in advancing the HR profession.”

November’s highlight was a program on “Immigration Reform: What Employers Need to Know.” The presenter was a special agent with the Immigration and Customs Enforcement Service.

**SYRACUSE
(Central New York Chapter)**

“I think all chapters should go for the challenge of planning the annual NYS Conference,” declared a somewhat

weary (but satisfied) Jennifer Morse, chapter president. “Although it can be exhausting (18 months and 50 volunteers went into the planning), it was a great success for state HR society and HR professionals who attended. Morse publicly thanked chapter members, and Annette Guide, (executive director, NYS-SHRM) and Pat Barnes, SPHR, (conference treasurer), for their encouragement and support. It was one of the best attended state conferences in recent memory (see write up in the last issue of HR Now). Additionally, employer-of-choice awards went to nine companies in the seventh year of the program that is sponsored by the Syracuse chapter.

**UTICA
(Mohawk Valley SHRM)**

The Mohawk Valley chamber of commerce, for the fifth year, joined the chapter to select and announce the Ursula Flagg Award winners for HR Excellence. “Five organizations and one individual won on the basis of exceptional achievements,” said chapter president Jim Armstrong. The categories included strategic management, employee/labor relations and occupational health, safety and security.

**WESTCHESTER COUNTY
(Westchester Human Resources Management Association)**

November meetings focused on various aspects of HR law, including presentations by county executives on the Human

Rights Commission and human rights legislation, according to chapter president Alan Pearlman, CCP.

**PLATTSBURGH
(Champlain Valley Human Resources Association)**

Heading her report “Small but Ambitious.” Chapter secretary Adrienne Boyd-Wiley remarked that “although we are the smallest chapter in NYS, we remain committed to promoting the HR profession and are confident that our membership numbers will continue to grow. Our collective ambition will see to it.” Not much we can add to that!

**JAMESTOWN
(SHRM-PANY Border Chapter)**

This relatively new chapter is “implementing a redesign of its organizational structure,” according to president Mark Wasiewicz, SPHR. Among the changes are a division of labor between the president and president-elect: the president oversees chapter services, while the president-elect serves in a support role. An agreement has been signed with “JOBS,” in which JOBS will air local radio ads through the website, promoting the chapter and its services without cost. Wasiewicz adds that “we are continuing to reach out to HR professionals in neighboring Warren County, PA, to expand our membership. ▶

NYS-SHRM’s Honor Roll

The New York State Society for Human Resource Management, Inc. was formed in 1986 as a state “council,” affiliated with the national Society for Human Resource Management. In 1998 the “council” was incorporated as a non-profit professional association under its current name. We are deeply indebted to all our volunteers, and thank them for their leadership, inspiration, creativity and tireless effort to promote the HR profession throughout New York State.

YEAR IN OFFICE	VOLUNTEER LEADER
2004 - Present	Annette Guido
2001-2003	Grant A. Schneider, SPHR
1998-2000	John E. Lewison, SPHR
1996-1997	Roger Hilfiker
1994-1996	Ursula Flagg, SPHR
1992-1993	Mary Ellen McLean, SPHR
1990-1991	Rosalie Krajci, Ph.D., SPHR
1988-1989	Kay Robinson, SPHR
1986-1987	Cynthia Favata



New York News BRIEFS...



Lunch-time: going, going, gone

Well, maybe not “gone,” but certainly “going.” The Louisville, KY-based fast-food chain, KFC, recently conducted a survey of 1,000 workers and found that a full 50 percent of them take only 30 minutes for their lunch break. In fact, 60 percent of those surveyed said that the one-hour lunch break is the biggest myth in the workplace. Worse yet, 58 percent of those surveyed said they eat lunch at their desks in order to get more work done, like answering emails (and maybe a little online shopping, too). Less than 10 percent said that they take a full one-hour lunch break. But don't feel too bad. A poll of 2,000 British workers found the average lunch break is 19 minutes, with only 3.5 minutes devoted to actually eating! Gulp!

Why'd You Take that Job?

According to a recent survey of 1,400 chief financial officers conducted for financial recruiter Robert Half Finance & Accounting, 27 percent said salary was the most important reason that prospective applicants joined their organizations. Twenty-four percent said that company stability was the top concern of new hires; and 22 percent said work environment/corporate culture was the most important consideration for prospective new hires. So why did you take that job?

My Job Makes Me Fat

Here's a statistic for you: one out of every five workers say that they are more than ten pounds heavier than before they started their new jobs. That's the latest word from CareerBuilder's annual “Work and Health” survey. Forty-six percent of workers report gaining weight since starting their current jobs; and ten percent admit packing on more than 20 pounds. Ouch! As one might expect, workers in sedentary jobs are more likely to report gaining weight. And talk about federal fat: half of all government employees report having growing waistlines, compared to only 35 percent of workers in the retail trade. So what are you waiting for? Get up and walk around!



New York Law on Disposing of Personnel Records

If you have a for-profit company operating in New York, you'd better be mindful of the new Disposal of Personal Records law passed in June (chapter 65 of the Laws of 2006). The term “personal identifying information” includes any data in combination with any one or more of the following: social security number, driver's license number, non-driver identification card number, mother's maiden name, savings or checking account numbers, debit card numbers or codes, or ATM codes. Much of this information is hidden away in HR files, so be guided accordingly. You should shred the record before disposal; destroy personal identifying information contained in the record; modify the record to make personal identifying information illegible, or take action consistent with commonly accepted industry practices for document destruction. The law takes effect December 1, 2006, and carries a hefty penalty. Ouch!

Up, Up, and Away

Rising healthcare costs remain the number one concern of employers who participated in a recent benefit survey conducted by C&B Consulting Group, a strategically focused employee benefits consulting firm based in Syosset, NY. According to the survey, the average annual premium for medical coverage jumped to around \$8,300 per employee – an increase of 13 percent over 2005. For more information contact Russell Hoernig at 516-247-1979.

Idle Chit-Chat Not so Idle

How many times has your boss called you into his office and complained about all the time employees waste with idle chit-chat over the proverbial water cooler. Well, according to a survey conducted for Office Team, a staffing service firm for skilled administrative professionals, idle chit-chat isn't so idle after all. In fact, according to the 150 senior executives at the nation's 1,000 largest companies who were surveyed, “informal discussions at the water cooler or in the lunchroom can often lead to new ideas, stronger work relationships and improved team camaraderie, which in turn can increase productivity.” There is a downside, though, says Diane Domesy, Office

■ new york news — continued on page 36

Team's executive director. "Conversations should not interfere with work that needs to be done." Darn! Back to my cubicle.

Right-Handed Men Need Not Apply

Well, that may be a bit harsh, but according to a recent research study by economists at the National Bureau of Economic Research, managers who are left-handed and who have at least a year of college earn about 13 percent more than their right-handed counterparts. Further, lefties who completed four-year college degrees earn about 21 percent more than "righties," said the study. But not everything that works for men will work for women. Interestingly, the study found no such pay disparity between right-handed and left-handed females.

Young'uns Need Not Apply

Well, they can apply, but if a company believes that hiring older workers is better, they can do so without running afoul of the federal Age Discrimination in Employment Act (ADEA) – at least so says the EEOC in a proposed new rule change. According to Raymond Peeler, a senior attorney advisor with the agency, Employers may post help-wanted notices ... expressing a preference for older workers with terms such as "over age 60," "retirees," or "supplement your pension." The targeting of older workers is okay under ADEA as long as it doesn't screen out others unlawfully under the proposed rule change.

Unhappy Recruits

An overwhelming 70 percent of job-seekers say they are dissatisfied with the entire hiring process; and a meager 25 percent of employees say they like the company they are working for. Those are the general results from the Q2 Staffing Index survey released by Staffing.org today. Other survey findings: 65 percent of employees say they are dissatisfied with their current management, although more than 70 percent say they are satisfied with their current job. For more information contact John Zoccola of Staffing.org by email at jzoccola@staffing.org.

Be Forewarned

A survey released by the American Management Association and the ePolicy Institute shows that companies are firing employees more often now for violating email and other computer-related policies. According to the survey, 26 percent "of employers have terminated employees for misusing company email, up from 17 percent five years ago." Worse, 2 percent say they have dismissed workers for inappropriate instant-messaging chat; and another 2 percent have dismissed workers for posting offensive Web log content.

Dumb, But Not Quite Stupid

U.S. college students completing four-year degree programs, it seems, aren't as bright as one might think. In fact, 20 percent of them possess only "basic quantitative literacy skills, meaning they are unable to estimate if their car has enough gasoline to get to the next gas station." For students completing a two-year (associate) degree, the percentage is worse at 30 percent. So says a recent study by the American Institutes for Research – a Washington, D.C.-based nonprofit research group. The study showed that about half of students completing a four-year degree program aren't able to perform tasks as "comparing credit card offers with different interest rates, or summarizing the arguments of newspaper editorials." Well, you can't know everything!

And Further More...

According to a 2006 survey conducted by Jump\$tart Coalition, Washington, D.C., on average, high school seniors answered only 52.4 percent of questions about personal finance and economics correctly. Maybe with all those electronic calculators, students have forgotten how to add and subtract?

Slow Progress

In 2005, women held 14.7 percent of all Fortune 500 board seats, up from 13.6 percent in 2003, and 9.6 percent in 1995, according to a recent survey by Catalyst. In 1995 only 11 Fortune 500 companies had 25 percent or more women on their boards. By 2005 this figure had jumped to 64. Slow, but progress is being made.

Staff Meetings - the Obvious

Not too long ago, GroupSystems Corp, a Denver intelligence services and solutions provider, did a survey of full-time professionals in corporations and government on the subject of staff meetings. More than 84 percent of the respondents said that they thought staff meetings could be made a lot more efficient. The average staff meeting clocked in at around 50 minutes. Many said that they thought staff meetings could be shorted by 16 minutes, just by controlling irrelevant discussion, lack of closure, and unclear action items. Worse yet, a whopping 68 percent said that their suggestions and input during staff meetings are only sometimes or rarely implemented. ▀

Clarification: On page 23 of the Fall 2006 issue of HR Now, under the subject of "Workplace Violence Training Now Law," there was an implication that this new law applied to any employer with at least 20 full-time workers. As Deborah H. Lesser, President, EEO Compliance Services, Inc. was kind enough to point out (along with several others) the definition of "employer" here is limited to public sector, not private sector employers. We thank her for her eagle-eyed vigilance. Ms. Lesser can be reached at 914-699-5538.

Disclaimer: As careful as we are at HR Now in reporting on employment law and related matters, we are no substitute for, nor is the above intended to replace, competent legal counsel.

Training on The Cheap

BY JOANNE L. SMIKLE



Layoffs...re-engineering...downsizing...the return of the budget axe has caused the demise of training, development and other forms of education in corporations large and small. Unfortunately the need for training has not evaporated with the dollars.

It is incumbent upon human resource leaders to find and create ways to deliver learning the business units need. The question now, is how? How do we plan, deliver and evaluate first-rate learning with meager resources? This article presents three strategies for providing meaningful learning support to

the business units. Those strategies are Small Bite Learning, Facilitated E-learning, Resource Swapping.

Facilitated E-Learning

Moving on to Facilitated E-Learning, when computer-based modalities were first introduced many feared that they would significantly reduce the role of trainers and the entire function. What we have learned since then is that e-learning is only as good as the training transfer mechanisms that support it. While some employees can adeptly use self-directed modules, many have difficulty. This means that the training department must find ways to facilitate e-learning as well.

The outcomes have to be measured in substantive ways. This means something more than 'did the employee complete the modules.' The better question is how are they able to use the information in their work environment and how has the

learning benefited the department. The advantage of e-learning is that it can, like Small Bite Learning, be quick. Plascjak cautions that quick does not mean less quality. In her estimation, higher quality, whether in traditional length courses, or shorter ones, provides a greater return on learning for the organization. This also ensures the viability of the entire training function.

Resource Swapping

The next strategy, Resource Swapping, is perhaps my favorite. It builds collegiality and support within our profession. It requires a strong, healthy network and a commitment to the entire profession. It can be conducted formally or informally, depending on the culture and needs of the organizations. Let me provide examples of Resource Swapping. One training manager in a financial institution sees a need

■ training — continued on page 38

for business writing skills in her organization. The budget will not permit this expenditure. She has a colleague who works for the local community college.

They are looking for speakers for their annual staff development day. The two agree that they will swap resources. The banker gets one of her vice presidents to present for the staff development day in exchange for one of the college's faculty coming to the bank to teach the business writing course. This was an informal arrangement.

On to a more formalized approach. Two training vice presidents in non-competitive industries decided to proactively address their needs for management development. Once each organization defined the competencies required, the two executives created case-study based learning sessions. They shared the expense of the off-site facility for the year-long, bi-monthly learning sessions. Additionally, they shared the expense of facilitators. The managers got the benefit of peer to peer learning with expert facilitation. The organizations got the benefit of the management development at a greatly reduced cost.

Resource Swapping does not stop there. It can be successfully accomplished within the organization as well. Often one department will have a resource, a video-based training series or a highly skilled expert, that could benefit another department. If managers are not prompted to think about sharing those resources, they won't. It is up to the human resource staff to facilitate building an internal resource network. Building that network is not enough; it has to be kept updated and shared constantly. The human resource department is also responsible for keeping managers and staff apprised of the resources they have available. Plascjak makes sure that her participants know of all the relevant resources related to the courses they are taking. She maintains a library of books, videos and other resources that supplement the courses.

Tough times call for creative measures to produce on-going learning throughout the organization. If your organization is reluctant to try different approaches, gently introduce one strategy at a time.

Space is another viable resource that can be swapped or bartered. Companies that have top of the line training facilities can swap use of the rooms for any number of things. Consider approaching subject matter experts with any number of plans. You can ask experts in your area to provide leadership development for your senior ranks in exchange for using your facilities and equipment to record their presentations. You can also invite trainers to teach their latest principles to your staff in exchange for using your rooms for their public seminars. Consider loaning your space to a professional association in exchange for one of their members providing learning for one of the business units that you support. Creativity is the key to creating a swap or barter arrangement.

Additional Strategies

These three strategies are not the only tools that we can use to make sure that employee development is maintained in even the toughest fiscal times. Since dollars for conference and convention attendance have decreased, it is imperative that attendees be held accountable for both attending every session possible and bringing the information back to the organization. Gone are the days when conference attendance meant ardently making the rounds of cocktail parties and sleeping through the educational sessions. Weston encourages her people to attend relevant learning events, bring back all of the handouts and provide a condensed session on the salient points. This ensures that they maximize and multiply the use of resources so that the entire organization benefits.

A final strategy is one that I have not seen in many years. It involves leader-led learning. Many years ago an executive in a

large federal agency wanted his managers to embrace a more collaborative approach to handling people and resources. Instead of relying on the training department, he and his deputy identified key articles and books that encapsulated the core competencies they sought to develop. They used bi-weekly management meetings to address key points from the articles. Once the management group grasped the basic points, they used the meetings to discuss how they were applying concepts in their work units. This approach held the managers accountable not just for learning, but also for real world application. It also cost nothing and produced great results, not to mention the fact that the management meetings were far more outcome focused.

Summary

Tough times call for creative measures to produce on-going learning throughout the organization. This requires building partnerships in the organization and the larger learning community. These difficult fiscal times require ingenuity, flexibility and fortitude. If your organization is reluctant to try different approaches, gently introduce one strategy at a time. Be certain to track cost savings, results and outcomes in the business units. This data will enable you to justify the use of nontraditional approaches. It will also enhance your value to the organization and our profession. ▀



About the Author: Joanne L. Smikle provides consulting and training services to organizations across the country. Her areas of expertise are team building, leadership development and customer satisfaction. You can reach her via the Web at www.smiklespeaks.com, or by phone at (301) 596-2822.

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