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February

Meeting Information

**School to Work
Transition Projects with
Dickinson High School
Presented by Martha Erickson**

**Thursday, February 11, 2016
Dickinson Elk's Lodge
11:30 am MT**

February Meeting

The Southwest Area Human Resource Association welcomes Martha Erickson as our speaker for February. Martha will present information on school to work transition projects with Dickinson High School. She will share some of the challenges being faced with what kids know and don't know, and how HR professionals can help the process. Plan to attend our next meeting scheduled for Thursday, February 11, 2016 at 11:30 am MT at the Dickinson Elk's Lodge. ■



Hoffmann Selected for Certification Item Writing Workshop

Uma Hoffmann, SHRM-SCP, SPHR, was selected to participate in an item writing workshop for the SHRM Certified Professional (SHRM-CPSM) and Senior Certified Professional (SHRM-SCPSM) exams on January 21 -25, 2016. After an extensive review process, Uma Hoffmann was selected for this workshop from the more than 80,000 highly talented HR professionals, educators, and business partners who are SHRM certified. Participation in this workshop resulted in the creation of hundreds of items for SHRM's CP and SCP exams.

Founded in 1948, the Society for Human Resource Management (SHRM) is the world's largest HR membership organization devoted to human resource management. Representing more than 275,000 members in over 160 countries, the Society is the leading provider of resources to serve the needs of HR professionals and advance the professional practice of human resource management. SHRM has more than 575 affiliated chapters within the United States and subsidiary offices in China, India and United Arab Emirates.

Uma is a member of the Southwest Area Human Resource Association and is employed as Human Resources Manager with Steffes Corporation in Dickinson. Congratulations Uma! See photo on page 6. ■



Society for Human Resource Management

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Thank You!

Thank you for your contributions
to this edition of the SAHRA Newsletter.

Southwest Area Human Resource Association

This newsletter is a publication of the
Southwest Area
Human Resource Association
Chapter #0571
PO Box 132 • Dickinson ND 58601
<http://ndsahra.shrm.org>
Newsletter Editor: Carrie Zubke

President's Message

Hello SAHRA Friends!

I wasn't able to attend the ND SHRM Leadership Conference that was held in January in Fargo, but I did conference in for parts of the meeting. The Chapter Presidents from Fargo, Grand Forks, and Bismarck, along with the ND State Council spent two days going over 2016 planning. They discussed the State Conference, which will be held in Bismarck this year on September 20-21 at the Bismarck Event Center. Mark your calendars and save the date!

I hope that many of you plan to attend the SHRM Annual Conference in Washington, DC this year in June. The first price increase has already occurred – but if you missed it, you can still register. Last year we had a fun group of SAHRA members who went, and enjoyed some networking and fun at the conference. It would be great to take a big group from North Dakota again!

We are still searching for a President-Elect for 2016, who will take over the SAHRA group in 2017. If you or someone you know is interested, please call or email me dscheeler@fisherind.com. ■

DeAnn Scheeler, SHRM-SCP
SAHRA President

Treasurer's Report

Southwest Area
Human Resource Association
January, 2016

New Statement Balance				\$13,727.20
Current Checks / Deposits		Interest Earned		\$0.11
	1/18/2016	Deposit	Membership Dues	\$385.00
#562	1/15/2015	Elk's Lodge	Dec Membership Meal	(\$415.75)
#563	12/15/2015	SHRM Foundation	2015 Annual Donation	(\$248.05)
#565	12/30/2015	Jenna Wilm	Dec 2015 speaker expense	(\$417.33)
Compare to ending bank statement balance		\$13,031.18		
Outstanding Checks / Deposits	#566	DeAnn Scheeler	Ebeltoft.Sickler Thank You & speaker meals	(\$103.35)
TOTAL:				\$12,927.83



SAHRA Board Meeting Minutes

No board meeting in January.

SAHRA Meeting Minutes

January 14, 2016

President DeAnn Scheeler called the meeting to order.

Upon motion by Kathleen Obrtisch, second by Lindsey Cook, motion to approve the December membership meeting minutes as presented in the newsletter.

The treasurer's report was also in the January newsletter.

NEW MEMBERS:

No new members.

ANNOUNCEMENTS:

SHRM Membership-Please use code 0118 for new members and indicate your SAHRA affiliation.

DeAnn announced that there is currently a Blanket Benefit taking place by Dickinson Leadership. You may participate by making blankets, donating materials or providing monetary donations to the group. For more information, please see the Chamber News or DeAnn.

DeAnn announced that we have an open board position. Sarita Haven has submitted her resignation. If anyone is interested in the Government Affairs/ President Elect position, please see DeAnn.

ND Job Service will be having a job fair on March 22nd from 1:00-6:00 pm

at the Biesiot Activities Center. Businesses are able to reserve a spot for \$125. If interested, please see Aimee Kovash with ND Job Service.

COMMITTEE REPORTS:

Foundation/Past President-Marie Bittner-Today's raffle item to support the SHRM foundation was donated by DeAnn Scheeler and is a basket of car washes and car washing accessories. Raffle tickets are \$1.00 each.

Membership-Melissa Stoltz: Carrie indicated that membership dues and applications are due. The membership list will be updated in February. Please submit your membership renewal if you wish to remain a member.

Certification-Carrie Zubke: Carrie indicated that there are 10 people interested in working towards their certification. A study group will meet every other Wednesday and will be led by Donette Peterson. DeAnn won a certificate for a free certification exam. The board will be working out the details on how to award this to one of our members. DeAnn added that SHRM has released an APHR certification which is a stepping stone for further certification. She has not seen details from SHRM on this announcement and will update the membership as details are released. If you are interested in becoming certified, please see Carrie.

Southwest Area Human Resource Association Board of Directors

President:

DeAnn Scheeler-Fisher Industries
dscheeler@fisherind.com
701-456-2179

Past President / Foundation Director:

Marie Bittner, Blue Cross Blue Shield of ND
Marie.Bittner@bcbsnd.com
701-260-5964

President Elect / Governmental Affairs:

Marie Bittner, Blue Cross Blue Shield of ND
Marie.Bittner@bcbsnd.com
701-260-5964

Secretary-Treasurer:

DeEll Jordre-Dakota Prairie Refining, LLC
DeEll.Jordre@dprefining.com
701-456-6912

Certification Director:

Carrie Zubke-American Bancor, Ltd.
czubke@weareamerican.com
701-483-3287

Diversity Director:

Chelsea Dicke -Theodore Roosevelt Medora Found
chelsead@medora.com
701-623- 4444 ext 8802

Membership Director:

Melissa Stoltz-American Bancor, Ltd.
mstoltz@weareamerican.com
701-483-6811

Program Director:

Shelly Nameniuk-City of Dickinson
shelly.nameniuk@dickinsongov.com
701-456-7801

Public Relations Director:

Amber Mathieson-Dickinson Parks & Recreation
amathieson@dickinsonparks.org
701-456-2074

School to Work Director:

Kathleen Obrtisch-Dickinson State University
Kathleen.obrtisch@dickinsonstate.edu
701-483-2541

Technology Director:

Christina Anthony, CHI St Joseph's Health
christinaanthony@catholichealth.net
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Retaliation on the Rise: The EEOC Responds

Workforce retaliation occurs when an employer unlawfully takes action against an individual in punishment for exercising rights protected by any of the laws aimed at ensuring equal employment opportunities. Rights protected by these laws include participating in the investigation or prosecution of an equal employment opportunity claim or opposing an unlawful practice under any of the equal employment laws. Among these laws are the Civil Rights Act, the Equal Pay Act, the Age Discrimination in Employment Act, and the Americans with Disabilities Act.

Employer retaliation claims have become more prevalent across the country. In 2014, the Equal Employment Opportunity Commission (EEOC) reported that retaliation claims reached a record high. In North Dakota, some form of employer retaliation was alleged in over 60% of all charges filed with the Commission. In fact, retaliation is now the most frequently alleged basis for discrimination in private and public employment.

On January 21 of this year the EEOC released its Proposed Enforcement Guidance on Retaliation and Related Issues. The last time the EEOC published any guidance on retaliation issues was in 1998. In the eighteen years since the last EEOC guidance on this issue there have been numerous court decisions regarding retaliation in employment. Now, the EEOC is seeking to clarify its position and give guidance employers and employees alike.

The updated guidance addresses a variety of issues, including the elements of retaliation claims, the interaction of an ADA "interference" claim, and specific remedies available in retaliation cases. The scope of this article, however, is limited to the EEOC's "Best Practices" guidance.

The EEOC's Best Practices Recommendations

This proposed guidance provides significant insight into how the Agency intends to move forward in investigating and prosecuting retaliation claims. In addition, it provides HR professionals a five step plan to avoid retaliation claims. That plan is as follows:

1. Implement Written Employer Policies – Draft a written, plain-language anti-retaliation policy. The policy should address the

employer's expectation of employee conduct. Include examples of what to do, and maybe more importantly, what not to do when allegations of discrimination arise. There should be a reporting mechanism in place for employee's to air their concerns and a method of informal resolution.

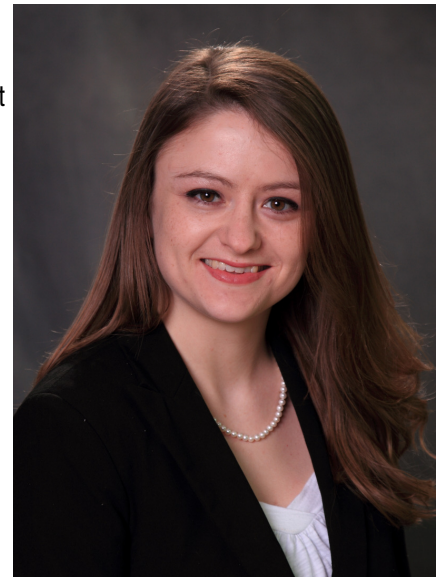
2. Train Employees – An employer should make sure that each employee receives a copy of the written anti-retaliation

policy and that management understands that any retaliation will not be tolerated. In addition, the company should provide examples of retaliation and how to avoid those problematic situations. Training should not be limited to the office setting, and should be provided to employees that work in all industries, including manufacturing, service and construction industries.

3. Directly Address Any Issues that Arise – Sometimes, even with the most proactive anti-discrimination policy, discrimination claims arise. In the event that such a claim is brought, HR officials should respond by re-educating the workforce. Provide information to all parties and witnesses regarding the company's anti-retaliation policy and advise supervisors and management personnel how they can avoid committing actual or perceived retaliatory conduct.

4. Proactively Follow-Up on Discrimination-Related Issues – An employer should then periodically check in with employees, managers and witnesses whenever there is an instance of alleged discrimination. HR professions should identify employee concerns during these conversations. This allows companies to detect perceived retaliation and appropriately address employee concerns before they rise to the level of an EEOC complaint or similar lawsuit.

5. Review Any Consequential HR Decisions – Employers should consider requiring an HR specialist, in-house counsel or individual in a management position to review proposed adverse employment actions such as termination or demotion. The EEOC advises that these professions should be able to "know, understand and easily identify" the reasons for taking such



Allison Mann | Lawyer

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SAHRA Meeting Minutes

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Diversity-Chelsea Dicke: no report

Government Affairs/President Elect-open: no report

Program-Shelly Nameniuk: no report

Publicity-Susan Lengowski: no report

School to Work-Kathleen Obritsch: Reported that Bakken U has issued their first scholarship to a DSU student. The full article can be found in the Dickinson Press. DSU will be hosting a job fair on April 22nd, 2016. Also, internship opportunities through DSU will be available.

Technology-Christina Anthony: no report

Secretary/Treasurer-DeEll Jordre: no report

OLD BUSINESS:

No old business discussed.

NEW BUSINESS:

DeAnn informed the membership that SAHRA has won the Pinnacle Award at the SHRM Leadership Conference for our efforts in certification. We are the first chapter to win for North Dakota. SAHRA will receive a \$1,000 award, a Pinnacle trophy, and will be having an official presentation in the first quarter of 2016. There were 12 recipients out of 600 chapters total. Congratulations to everyone!

PROGRAM:

Diversity Panel: Persin Polishwalla- Associate Director of International Programs at DSU, Beth Grandell- Coordinator for the Dickinson Adult Learning Center, Kari Shea-ND Vocational Rehabilitation of Dickinson.

Meeting adjourned. ■

Minutes submitted by Tammy Haugen
On behalf of DeEll Jordre
SAHRA Secretary and Treasurer

Approved by DeAnn Scheeler
SAHRA President

Retaliation on the Rise: The EEOC Responds

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actions and ensure that the necessary documentation exists to support such a position. All such decisions must be free from any unlawful motivation.

The Takeaway:

The bottom line here is the EEOC recognizes that retaliation in the workplace has become a widespread problem. The Commission's renewed attention to the issue demonstrates a commitment on behalf of the federal government to pursue legal action against employers. An understanding and implementation of the EEOC recommendations, discussed above, can help employers avoid costly retaliation litigation with the federal government by preventing the problems from arising in the first place.

The EEOC's guidance does not have the same effect as a law, regulation, or statute, and as of right now, it is only a draft. There is a 30 day public comment period (ending February 24, 2016). After that period has expired, final guidance from the EEOC can be expected. The full version of the Proposed Enforcement Guidance can be accessed at the following address: <http://www.regulations.gov/#/docketDetail;D=EEOC-2016-0001>.

Our interest in serving you

My law firm's goal is to give understandable information and to foster discussion about real-life issues facing human resource professionals. If we are not achieving that goal or if you would like us to address other employment law issues, please email me at amann@ndlaw.com (Minnesota Licensed Only). We promise to take your comments and ideas to heart.

Disclaimers

(Otherwise known as "the fine print")

I make a serious effort to be accurate in my writings. These articles are not exhaustive treatises, though, so do not consider them complete or authoritative. Providing this information to you does not create an attorney-client relationship with my firm or me. Do not act upon the contents of this or of any article on our homepage or consider it a replacement for professional advice.

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Diversity

SHRM's website has many useful articles related to diversity. In January, they released the top diversity articles of 2015.

Click on the links below to read the articles on [racial discrimination](#), [dress code policies](#), [accommodating menopause at work](#), [issues with wellness incentive rules](#), and [millennial dads](#).

These topics are prevalent in our community today and are important for us in HR to be aware of. Be sure to watch their webpage for more up-to-date articles in Diversity and HR! ■

Chelsea Dicke
SAHRA Diversity Director

SHRM Foundation Fundraiser

• Valentine's Wine Basket •

For each \$1 donation to the SHRM Foundation, your name will be entered into the raffle drawing for this prize. Drawing to be held [February 11, 2016](#) at the SAHRA meeting. Thank you for your support of the SHRM Foundation!

Permit #15-25

If your or your business are interested in donating an item for the SHRM Foundation Fundraiser, please contact:
Marie Bittner, Past President / SHRM Foundation Chair.

Top 10 Legal Challenges Employers Will Face in 2016

The new year will bring a host of demanding tasks for employers, including 10 top employment law challenges, according to a report issued by XpertHR, a publisher of online HR legal information.

Same-sex marriage now is lawful nationwide following the Supreme Court's ruling in *Obergefell v. Hodges*, 135 S. Ct. 2584 (2015). Consequently, employers need to ensure that their policies and practices don't discriminate against those in same-sex marriages, Beth Zoller, a legal editor with XpertHR, said in an interview with *SHRM Online*. "Employers must revisit their policies and practices regarding EEO [equal employment opportunity] and discrimination, employee benefits, leave policies, family and medical leave, marriage status, and tax information to ensure they lawfully implement this ruling," the report stated.

Protections for lesbian, gay, bisexual and transgender (LGBT) individuals are expanding at the federal and local levels, meaning that prudent employers will treat LGBT workers as a protected class, Zoller said. The federal government pronounced in 2015 that treating a LGBT worker less favorably based on sex or gender stereotypes is a violation of Title VII of the Civil Rights Act of 1964, the report said.

Reasonable accommodations for an increasingly diverse workplace are necessitated partly by a 2015 Supreme Court decision that job applicants require religious accommodations. In a separate decision, the Supreme Court ruled that workplace policies that deny accommodations to pregnant workers that are provided to other employees may violate the Pregnancy

(Continued on page 7)

Hoffmann Selected for Item Writing Workshop



Top 10 Legal Challenges Employers Will Face in 2016

(Continued from page 6)

Discrimination Act. Employers should aim to make accommodation policies more inclusive, Zoller said.

Paid sick leave is another emerging trend. In September 2015, President Barack Obama signed an executive order providing paid sick leave for federal contractor employees, the report noted. Four states—California, Connecticut, Massachusetts and Oregon—as well as Washington, D.C., and more than 20 municipalities have created their own paid-sick-leave laws. Aside from legal requirements, offering paid leave is “a way to retain valuable employees,” Zoller noted.

The **National Labor Relations Board’s (NLRB’s) pursuit of numerous workplace policies**, such as social media and confidentiality policies, is an ongoing obstacle for employers, the report noted. The NLRB is keen on halting employer actions that stifle employees’ protected, concerted activity, Zoller said. “Avoid overly broad language in social media policies and confidentiality policies,” as they can intrude on protected, concerted activity, she added.

Workplace wearables pose both benefits and risks to employers, the report noted. Benefits include enhanced worker communications and increased workplace safety. In addition, wearables can be part of employee training, such as when employees record themselves performing a task and share the recording with a colleague who provides instantaneous feedback. Risks include possible employee access of inappropriate information, possible loss of employee productivity, invasion of privacy concerns and the potential disclosure of an employer’s confidential information. Employers should have a policy on wearables, Zoller said, adding that they will frequently have to revisit their policy as the technology changes.

The **redefinition and expansion of who is entitled to overtime and the increases in the minimum wage** at the state and local levels will be among employers’ biggest challenges. The increase in the salary threshold for white-collar exemptions from overtime will “greatly increase employer costs” and result in reclassification of much of the workforce, Zoller noted.



The **provision of increased workplace rights for workers who once were classified as independent contractors** will have a substantial impact on employers. It has become “increasingly difficult to classify workers as independent contractors,” Zoller said. Misclassification of individuals as independent contractors could lead to the failure to: withhold employment taxes, include workers on medical benefits plans under the Affordable Care Act, complete I-9 forms, pay unemployment compensation insurance, pay workers’ compensation insurance, and provide Family and Medical Leave Act leave—any of which could result in significant penalties.

The **NLRB’s revision of the joint-employer standard and expansion of the pool of employers** will have a critical impact on labor relations and business relationships of many employers, the report said. The NLRB’s decision in *Browning-Ferris Industries of California Inc.*, 362 NLRB No. 186 (2015), made it much easier to determine that two entities are joint employers, Zoller noted. Under this ruling, a franchisor’s mere potential of control over a franchisee is enough for them to be considered joint employers. “The more discretion a business can vest in its subcontractor, franchisee, subsidiary or distributor, the less likely it will be that the entities will be considered joint employers,” the report said.

Telecommuting and flexible work arrangements are growing in popularity. Telecommuting has increased by more than 80 percent since 2005, and approximately 30 percent to 45 percent of the U.S. workforce now telecommutes on some basis. Employers need to make sure employees are not working unauthorized overtime from home, and apply telecommuting policies evenhandedly so there isn’t favoritism or discrimination, Zoller stated.

Source: Allen Smith, “Top 10 Legal Challenges Employers Will Face in 2016,” Society for Human Resource Management, Jan. 8, 2016, <http://www.shrm.org/legalissues/federalresources/pages/top-10-2016-challenges.aspx>. Reprinted by permission of the publisher. All rights reserved. ■

1. Beerbower, Mandy-Herberger's, Dickinson
2. Benner, Tiffany-Dickinson State University (student member)
3. Bittner, Marie* - Blue Cross Blue Shield, Dickinson
4. Bren, Erv* - Community Action Partnership, Dickinson
5. Dicke, Chelsea -Theodore Roosevelt Medora Foundation, Medora
6. Gonzalez, Amy*-McKenzie County Healthcare System, Watford City
7. Hanson, Shelly* - Fisher Industries, Dickinson
8. Harper, Lynae*-Whiting Oil & Gas, Dickinson
9. Haugen, Tammy-Dakota Prairie Refining, LLC, Dickinson
10. Hendricks, Brittney* - Western Cooperative Credit Union, Dickinson
11. Hutzenbiler, Rebecca, SPHR, SHRM-SCP* - Baker Hughes, Dickinson
12. Jackson, Andrea*-Whiting Oil & Gas, Dickinson
13. Jordre, DeEll* - Dakota Prairie Refining, LLC, Dickinson
14. Kilwein, Krissy-Dickinson State University, Dickinson (student member)
15. Kovash, Aimee - Job Service North Dakota, Dickinson
16. Krebs, Linda-Stark County, Dickinson
17. Lantz, Nancy - Southwestern District Health Unit, Dickinson
18. Lindbo, Connie - Community Action, Dickinson
19. Messer, Jennefer, SHRM-SCP* - Fisher Industries, Dickinson
20. Morris, Shauna*-Theodore Roosevelt Medora Foundation, Medora
21. Mural, Olyana-Dickinson State University, Dickinson (student member)
22. Nameniuk, Shelly* - City of Dickinson, Dickinson
23. Nash, Tracy*-Tooz Construction, Dickinson
24. Pearson, Amanda*-Continental Resources, Dickinson
25. Reiger-Kempenich, Cindy-Sackman Electric & Controls, Dickinson
26. Scheeler, DeAnn, SHRM-SCP* - Fisher Industries, Dickinson
27. Schwindt, Scott - Western Cooperative Credit Union, Dickinson
28. Shea, Kari - North Dakota Vocational Rehabilitation, Dickinson
29. Spangler, Amy - City of Dickinson
30. Stenger, Heidi-Theodore Roosevelt Regional Airport, Dickinson
31. Stoltz, Melissa* - American Bancor, Ltd., Dickinson
32. Thornton, Kaela*-Continental Resources, Dickinson
33. Tuhy, Shar - American Bank Center, Dickinson
34. Tysver, Danita - Stark County Development, Dickinson
35. Volesky, Janel*-St Luke's Home, Dickinson
36. Wald, Irene* - Consolidated Telcom, Dickinson
37. Zubke, Carrie, SPHR, SHRM-SCP* - American Bancor, Ltd., Dickinson

List shows paid memberships as of 2/5/2016.

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SHRM-CP indicates SHRM's Certified Professional certification

SHRM-SCP indicates SHRM's Senior Certified Professional certification

PHR indicates HRCI's Professional in Human Resources certification

SPHR indicates HRCI's Senior Professional in Human Resources certification