

SEPTEMBER 2008

<http://www.ohioshrm.org/butler>

September 4th – MONTHLY MEETING

SPEAKER: Linda Keck, Counsel – Frost, Brown, Todd, LLC
COST: \$13.00 Members, \$15.00 Non-Members
DATE: Thursday, August 7, 2008
TIME: 7:15 AM – Registration/Networking
7:30 AM – Breakfast
8:00 AM – Presentation
LOCATION: Wetherington Country Club

**Joint Meeting
with OEC**

Directions: Take 75 to Tylersville & turn west. Go to the entrance of Wetherington Homes, which is just past Shell & Encore Café, turn right and follow to the stop at corner of Country Club Lane. Turn right at stop and follow road to left. It takes you into Country Club parking lot.

TOPIC: I-9 Recordkeeping

Linda Keck, Counsel with Frost, Brown, Todd, LLC concentrates her practice on U.S. Immigration and Nationality Law. She counsels domestic and international companies regarding non-immigrant and immigrant based visas for foreign national employees. Ms. Keck has also lectured at various client sites and local bar association seminars. Linda will share her knowledge regarding the importance of accurate I-9 recordkeeping as well as give us an update on the latest change in law regarding I-9 recordkeeping, e-Verify and other immigration compliance issues.

Please reserve your seat by Friday, August 29th by emailing Kristi Cain at kristi.cain@craneamerica.com or by calling (937) 293-6526 x. 246.

President's Message

September is here already. Children are back in school and summer activities seem to be winding down. We hope everyone has had a wonderful summer. Our August meeting topic was "Social Security as an Employee Benefit" presented by Sue Denny. Sue discussed items such as what employees need to know about social security, potential benefits before retirement, choosing when to collect these benefits, filing for benefits and Medicare. She also touched on other employer issues including "no match" letters and e-verify.

The Ohio Healthy Families Act remains a hot topic and how such mandated sick leave would affect Ohio employers and ultimately the Ohio economy. SHRM's national website and the Ohio Chamber of Commerce website have updates on this legislation.

We hope to see you at our September meeting.

Kristi Cain, SPHR - President B/WSHRM

Take Pride in how far you have come and have faith in how far you can go

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As a reminder, the 36th Annual Ohio Human Resource Conference will be held Sept. 17 - 19, 2008, at the Kalahari Resort in Sandusky, Ohio. Reports are that the facility is fantastic and the program exciting. They expect to have the highest number of attendees ever this year. We have been assured there is plenty of room at the resort for all. For more information go to:

http://www.ohioshrm.org/hr_conf/

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GCHRA Meeting Announcement

GCHRA has arranged for Tony Fiore, Labor & HR Chair of the Ohio Chamber of Commerce, to speak at GCHRA's monthly meeting on September 10th, to be held at the Drury Inn in Sharonville.

11:00 - 11:30 - Networking and Registration
11:30 - 12:00 - Lunch and Announcements
12:00 - 1:00 - Program.

Tony will be presenting an "Employers Tool Kit" to help businesses and HR professionals craft strategies to help defeat this bill.

Additionally, a representative from the Greater Cincinnati Chamber will be attending as well.

For reservations or more information contact:
gchracincinnati@aol.com or 513.554.4747

BWSHRM Local Membership Drive

Once again, we want to challenge our members to participate in another year of growth by inviting a new member to join our chapter. In return for a new member application, you are invited to join us at the next breakfast meeting at no cost to you. Together, we can make it happen!

To request a membership application, please contact our Membership Advocate:

Marc Fleischauer, SPHR – Partner, Porter Wright Morris & Arthur, LLP
1 S. Main St., Suite 1600, Dayton, OH 45402
937-449-6720 or mfleischauer@porterwright.com

Or visit our website at www.ohioshrm.org/butler and click on the membership link for more information. If you are a SHRM National Member, your local dues are only \$45 per year. If you want to join our local organization only, your local dues are only \$90 per year.

We hope to see you soon!

The Ohio Healthy Families Act Initiative: Why We Need To Oppose It and What We Should Do Now to Prepare If It Is Passed

By Peter K. Newman, The Newman Law Group

I. Introduction.

SEIU Local 1099 and other pro-employee groups have collected enough signatures to get the Ohio Healthy Families Act (OHFA) on the November ballot. Although Ohio Democratic Governor Ted Strickland has criticized OHFA and urged the unions and pro-business groups to negotiate a compromise, the unions have rejected the Governor's request for political reasons. Just as Conservatives used the same sex marriage ban in 2004 to bring out votes for President Bush in 2004, the unions are using OHFA to bring out the votes for Barack Obama this year.

Because the OHFA will impose broad employee leave requirements on Ohio employers at a time when they are already facing a challenging business environment, we need to vote against the OHFA and actively campaign for its defeat. In addition, every employer should take steps now to minimize the potential adverse effect of OHFA if it is ultimately passed.

II. Frequently Asked OHFA Questions and Answers.

Q. Which Employers Are Covered By OHFA?

A. The OHFA will apply to all employers who have 25 or more employees. The OHFA does not explain what it means to have "25 or more employees." Unlike under the Family and Medical leave Act (FMLA), the OHFA apparently applies even if an employer's employees are dispersed throughout the United States and fewer than 25 employees are actually located in Ohio.

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The Ohio Healthy Families Act Initiative: Why We Need To Oppose It and What We Should Do Now to Prepare If It Is Passed – Cont'd

By Peter K. Newman, The Newman Law Group

II. Frequently Asked OHFA Questions and Answers - (Continued from page 3)

Q. How Much Leave Must A Covered Employer Provide?

A. Covered employers would have to provide seven paid sick days a year to full-time employees – defined as those working more than 30 hours per week; and a pro-rata number of days for part-time employees working less than 30 hours per week or 1,560 hours annually.

Q. For What Reasons May an Employee Take Paid Sick Leave?

A. Unlike the FMLA, the OHFA covers more than just serious medical conditions. Instead, the OHFA permits the use of paid sick leave for any physical or mental illness, injury, or medical condition, or for obtaining professional medical diagnosis or care, or for preventive medical care of an employee or employee's family member (which includes a spouse, children, and parents. The OHFA is broader than the FMLA because it also permits an employee to take leave for his or her in-laws).

Q. Are There Minimum Increments In Which Leave Can Be Taken?

A. Paid sick leave may be taken on a daily basis, an hourly basis, or in the smallest increment that the employer's payroll system uses to account for absences or use of other leave.

Q. How Much Notice Must an Employee Give Before Taking Leave?

A. Unlike the FMLA which requires thirty days' notice, the OHFA would only require employees to give seven days' notice for a foreseeable leave of absence but only notice "as soon as practicable" for an unforeseen leave of absence.

Q. May an Employer Require an Employee Requesting Leave to Provide Medical Certification?

A. An employer could only require medical certification of an employee's need for paid sick leave if the employee is absent for three consecutive work days. The employee would have thirty days in which to provide medical certification. Unlike under the FMLA, the OHFA does not provide the employer with the opportunity to challenge an employee's medical certification by requesting a second medical opinion.

Q. Can an Employer Implement a "Use It or Lose It" Requirement to Prevent the Accumulation of Paid Sick Leave?

A. No. The OHFA specifically permits employees to carry over unused paid sick leave. Although an employee must be permitted to accrue seven days of sick leave each year, there is considerable debate over whether employees can accumulate sick leave indefinitely. Employers will have to wait until the Ohio Department of Commerce issues regulations before this issue is resolved.

Q. What Employer Actions Does the OHFA Prohibit?

A. The OHFA provides broad protection to employees from employer discrimination and retaliation. Specifically, it prohibits employers from: (1) discharging or discriminating against any employee for making any complaint that he or she has not been allowed to accrue or use sick leave, or because the employee has made any complaint or instituted any proceeding under or related to those sections, or because the employee has testified or is about to testify in any proceeding, or because the employee is assisting another employee in exercising such a right; (2) using paid sick leave taken under the OHFA as a "negative factor" in an employment action, such as hiring, promotion, or a disciplinary action; (3) counting the use of paid sick leave under a no-fault attendance policy; and (4) providing any accrued sick leave less than that guaranteed by the OHFA.

Employees who successfully bring OHFA claims may receive equitable relief, including reinstatement or promotion and damages equal to the wages or benefits denied or lost as a result of the employer's OHFA violation. If there is no denial of wages or benefits, an employee may receive actual monetary loss up to 10 days of wages. Successful employees may also receive treble damages and attorney's fees.

Q. How Will the OHFA Impact an Employer's Existing Leave of Absence Programs?

A. Employers would not have to provide the paid sick leave if the employer already provides leave that is "at least equivalent" to paid sick leave required by the OHFA. But the OHFA does not explain what this means.

Employers would be prohibited from reducing any form of leave once the OHFA becomes effective "in order to comply" with the OHFA. Because the OHFA does not explain what this prohibition means, it is unclear whether employers would be prohibited from making any changes to their existing leave programs.

Finally, because it was drafted by unions, the OFCA specifically states that its provisions do not interfere with, impede, or diminish employees' collective bargaining rights to establish sick leave or paid leave in excess of the minimum paid sick leave required by the OHFA. But the ability to collectively bargain over sick leave would be effectively limited by the OHFA's requirement that a leave program adopted be "at least equivalent" to the OHFA's requirements. This would appear to prohibit any changes to leave policies contained in collective bargaining agreements.

III. Practical Advice for Preparing For the OHFA.

Although it is impossible to predict whether the OHFA will pass, employers should hedge their bets by taking four proactive steps now.

First, revise your leave policies to comply with the OHFA prior to its likely effective date of December 4, 2004. Specifically, you must decide whether to operate a separate paid sick leave policy or to include the sick leave under a PTO policy. Even if an employer currently offers paid sick days, the policy will need to be amended to include the expanded definition of qualifying events for which leave may be taken to allow employees to take leave to care for their children, spouses, parents, and in-laws. Because the requirements under the FMLA and the OHFA differ, employers must establish two separate policies to cover leaves under both laws. Unionized employers must bargain with their unions over these proposed changes before implementing new policies.

Second, draft a standard medical certification form for employee absences lasting longer than three days. Questions on this form must comply with the Americans With Disabilities Act and, for covered employers, the FMLA.

Third, create an OHFA tracking form to comply with the Act's recordkeeping requirements and to ensure that unused leave is carried over from year to year.

Finally, train your executives, managers, and supervisors about the OHFA and the proactive steps you are taking to minimize its adverse effect on your business.

IV. Conclusion

Because the November election is fast approaching, it is important that every Ohio employer take action. Hopefully, we can defeat this bad piece of legislation. If not, we should at least adopt the preventive strategy discussed above.

If you have any questions about this article or would like to suggest a topic for an upcoming article, please contact me at either newmanlawgroup@gmail.com or (513) 373-5080.

Workplaces Resemble, Tap Into Olympic Games

By Kathy Gurchiek

Whether sprinting to finish projects or bending themselves into human pretzels as they aim for perfection, U.S. workers sometimes take on the demeanor of Olympians at the summer games, especially as an uncertain economy prompts some to reach for the workplace gold medal.

"In an uncertain economy, people grow more concerned about job security and proving their worth to employers," said Dave Willmer, executive director of Office Team, a California-based global staffing service.

"This pressure to perform may result in rivalries between employees," he said in a press release.

Employees today are somewhat, or significantly, more competitive with co-workers today than a decade ago, according to nearly half of 150 senior executives from the nation's 1,000 largest companies. Findings, released Aug. 13, 2008, are based on telephone interviews Office Team conducted in 2008.

"A bit of healthy competition among staff can increase motivation and productivity, but just as in sports, the overall results of the team are what count," he added. "Too much intramural competition creates tension and stands in the way of collaboration."

Some employers stage their own Olympics as a way to channel employees' competitive spirit and foster good morale and a sense of fun.

Taking their cue from the 2008 Summer Olympics in Beijing that began Aug. 8 and conclude Aug. 24, workers at an office furniture store in Wales, for example, competed in events such as the mail sack race, mouse pad discus and office chair sprint at a YMCA while [raising funds for a charity](#).

And since 2006, online service SurePayroll has hosted its own winter Olympics, complete with an Olympic village—a section of the company cafeteria designated as a place where employees can grab free healthy snacks such as fruit and granola bars during the five-day event.

Maybe its Olympic fervor has something to do with SurePayroll's location. It's in Glenview, Ill., just north of Chicago, which is one of the finalists in a bid to host the [2016 Summer Olympic Games](#).

For SurePayroll, the games are a stress reliever for an organization that employs about 135 people and does more than one-third of its annual business in January, says Tracy Johnson, its marketing director.

"In the payroll industry, our busiest time really starts in December and ends in the March timeframe. People are working a ton of hours, and in some cases they can be very stressed out," Johnson told *SHRM Online*.

In 2008, employees competed in afternoon events such as Wii boxing, Texas Hold 'em Poker, bean bag toss and Scrabble during five days of competitive intradepartmental games stretching from the end of January to early February. The winning department is awarded a pizza party.

"Everybody enjoys it. Everybody seems to have fun. I suppose for some businesses they may worry about the time spent away from the computer, but for us the morale building is much more important than a few minutes of lost work" on company time, she said.

While some may see an office Olympics as disruptive, for SurePayroll "it's absolutely productive for the company," Johnson said, noting that "if other people are busy... they can focus on work, but it really gives a nice break" during the quarter of the year when the organization is under pressure.

"Their winter Olympics," she said, "are designed to 'support one another during this busy time.'"

Office Olympics events aren't necessarily limited to indoor sports such as the paper airplane toss; some have put together their own version of indoor rowing teams. [The one on this YouTube video](#) from benson626 even has a coxswain facing the "rowers" as they glide past co-workers at their desks while a coach with a megaphone follows behind on a bike.

Others take the action outside, such as a Staples office in Ohio whose 2007 Summer Olympics included a briefcase toss, the office chair sprint and a coffee pot run.

But whether it's the reliance on teamwork, as in volleyball, or overcoming hurdle-like obstacles that obstruct the work, some Summer Olympic sports bear a resemblance to their jobs, according to a [CareerBuilder.com survey](#) of 7,960 full-time U.S. workers, who said their job was most like:

- Volleyball; 20 percent said their work relies on teamwork.
- Hurdles; 14 percent said a lot of obstacles are in their way at work.
- A marathon; 13 percent said their job has a slow, steady pace.
- Wrestling; 11 percent saw themselves as in a holding pattern.
- Weightlifting; 8 percent saw themselves as bearing all the weight.
- Synchronized swimming; 7 percent said they and co-workers are "on the same page."

Kathy Gurchiek is associate editor for HR News. She can be reached at kathy.gurchiek@shrm.org