Chapter Connection

A publication of the Evansville Area Human Resources Association

November 2022



AFFILIATE OF SHRM SOCIETY FOR HUMAN RESOURCE MANAGEMENT

SHRM EXCEL GOLD CHAPTER 2016

SHRM SHRM-CP | SHRM-SCP RECERTIFICATION PROVIDER

EHRA Evansville Area Human Resource Association

PRESIDENT'S **MESSAGE**

WOW! What an awesome EHRA Fall Conference! Our Professional Development Chair, Jennifer Zimmer, led the charge for this conference and with the help of the committee (mentioned last month), and it was a great success! We had a great turnout, good food and awesome speakers! I want to thank everyone that helped make it successful. We've posted some pictures and already have vendors wanting to come back next year!

While the Fall Conference is behind us, we're looking forward to the November meeting with a representative of the EEOC. Be sure to check the meeting emails that go out. If you are not receiving emails regarding meetings, please let me or a board member know, and we'll look into it!



We will be sending out board of director elections in the near future. Please stay tuned and cast your vote! The Board of Directors exist to help educate EHRA members on HR topics and we can only get better with your help!

It's hard to believe that I'm writing this, but mark your calendars for the December 2022 EHRA Holiday party. It will be at Bauerhaus again this year and the date is December 6th. If you're interested in helping with activities, prizes, etc. at the party, please reach out to a board member!

I will be attending a Volunteer Leaders Business Meeting in Washington, DC in November to learn more about what else can be brought to members of EHRA. I will not be attending the November meeting because of this, but I know you're in good hands! I'll give an update in December on some of the things we discussed! Have a great November!

Amanda Gries

SHRM Tip:

HR Magazine is available to SHRM members to read on your phone as an app! Search for *HR Magazine SHRM* and download the app today!

Follow EHRA on Twitter
@EvansvilleHR

EHRA Mission

The mission of the Evansville-Area Human Resource Association, Inc. is to promote professionalism in the area of Human Resource Management by providing opportunities for networking, comprehensive education and proactive support for its members while serving as a resource and advancing initiatives in the community through the enlistment of engaged and talented volunteer leaders.

MEMBER **SPOTLIGHT**



WELCOME TO OUR

NEW MEMBERS*

PRESLEIGH **BAGGETT**

USI Student

BRADFORD **BANKS**

The Arc of Evansville

JULIE **KELLY**

Cascade Energy

ESTELENE **LIGGETT**

D-Patrick

MARTHA **REYNOLDS**

The Indiana Institute for Behavioral Health

AMY **SHELL BROUSE**

Audubon Metals LLC

LUCERO **TENNIS KIEFFER**

Jackson Kelly

*MEMBERSHIP REQUIRES DUES TO BE PAID TO BE RECOGNIZED IN EHRA SYSTEMS AS A MEMBER

LET US RECOGNIZE YOU (OR A TEAM MEMBER).
IF YOU HAVE A FUN PHOTO OR KNOW OF AN ACCOMPLISHMENT OF ONE OF OUR MEMBERS, SHARE IT WITH US AT JFERTIG@USI.EDU

MEMBER **SPOTLIGHT**



BRADFORD **BANKS**

The Arc of Evansville

What led you to join EHRA? I was encouraged to join by my manager.

What do you enjoy about your job? I enjoy serving our employees.

*MEMBERSHIP REQUIRES DUES TO BE PAID TO BE RECOGNIZED IN EHRA SYSTEMS AS A MEMBER

LET US RECOGNIZE YOU (OR A TEAM MEMBER).
IF YOU HAVE A FUN PHOTO OR KNOW OF AN ACCOMPLISHMENT OF ONE OF OUR MEMBERS, SHARE IT WITH US AT JFERTIG@USI.EDU

EHRA November Meeting

Date: November 17, 2022

Location: Central Library—Browning Room

Evansville Central Library
200 Martin Luther King Jr Blvd
Evansville, IN 47713



$15.00 Member Ticket
($5.00 Late fee)

$30.00 Guest Ticket
($5.00 Late fee)

$0.00 Student Ticket

$0.00 Life Ticket

Register before Friday, Nov 11, 2022 to avoid late fees.

Program: EEOC's Perspective on Conducting and Using Background Checks:

What Employers Need To Know
When making personnel decisions - including hiring, retention, promotion, and reassignment - employers and prospective employers sometimes want to consider the backgrounds of applicants and employees. For example, some employers might try to find out about the person's work history, education, criminal record, financial history, medical history, or use of social media. Except for certain restrictions related to medical and genetic information, it's not illegal for an employer to ask questions about an applicant's or employee's background, or to require a background check. However, any time an employer or prospective employer uses an applicant's or employee's background information to make an employment decision, regardless of how it got the information, it must comply with federal laws that protect applicants and employees from discrimination. That includes discrimination based on race, color, national origin, sex, religion, disability, genetic information (including family medical history), and age (40 or older). The federal laws the apply to employment-related background checks are enforced by the Equal Employment Opportunity Commission (EEOC).

Objectives:
- Provide an overview of applicable federal law, including Title VII of the Civil Rights Act of 1964
- Explain the EEOC's function in enforcing Title VII
- Provide insight into the EEOC's perspective on the use of background checks in making employment-related decisions
- Discuss the implications of using arrest and conviction records in making employment-related decisions

Takeaways:
- Basic understanding of the federal laws applying to background checks (Title VII)
- Understanding of the EEOC's position on the use of background checks
- Understanding of the EEOC's enforcement mechanisms to remediate violations
- Best practices for conducting background checks

EHRA November Meeting Speaker



Brien Shoemaker

Brien Shoemaker is the Outreach and Education Coordinator for the Indianapolis District of the U.S. Equal Employment Opportunity Commission. Since joining the EEOC in 2001 he has served as an investigator and a supervisor. As an investigator Brien earned the Commission's CORE award for outstanding contributions to the EEOC during his work as the lead investigator in a multi-agency class case involving hiring discrimination. As an Outreach and Education Coordinator, Brien earned the Circle of Excellence Team Award for his contributions to the national training program for new investigators and for his work with Historically Black Colleges and Universities. Brien is also a member of the Labor Trafficking Committee for the Indiana Protection for Abused and Trafficked Humans (IPATH) and has spoken on this topic to numerous groups.



Department of Labor Proposes New Rule for Independent Contractor Status

By: Olivia Robinson (Legislative Affairs Chairperson)

On October 11, 2022, the Department of Labor ("DOL") released a proposed rule to update the test for determining whether a worker is an employee under the Fair Labor Standards Act ("FLSA") or an independent contractor. The FLSA governs minimum wage, overtime, and recordkeeping for employees, but it does not apply to independent contractors, which makes the proper classification of a worker under the law critical and consequential. The proposed rule was published in the Federal Register on October 13, 2022, and the DOL extended the public comment period until December 15, 2022.

Under the proposed rule, an employee is defined broadly as any individual whom an employer "suffers, permits, or otherwise employs to work" and is intended to encompass all workers who "as a matter of economic reality, are economically dependent on an employer for work." The proposed rule further explains that an independent contractor is only a worker who is, as a matter of economic reality, "in business for themselves." Finally, it states that economic dependence does not focus on the amount of income earned by a worker, or whether that worker has other income streams. It sets forth a six-factor test for determining whether a worker is "economically dependent" on an employer under the totality of the circumstances. These factors include:

1. **Opportunity for profit or loss depending on managerial skill.** This factor considers whether the worker exercises managerial skill that affects the worker's economic success or failure in performing the work, examining, among other things: whether the worker determines or can meaningfully negotiate the charge or pay for the work provided; whether the worker accepts or declines jobs or chooses the order and/or time in which the jobs are performed; whether the worker engages in marketing, advertising, or other efforts to expand their business or secure more work; and whether the worker makes decisions to hire others, purchase materials and equipment, and/or rent space. If a worker has no opportunity for a profit or loss, then this factor suggests that the worker is an employee.
2. **Investment by the worker and the employer.** This factor examines whether a worker's investment is "capital or entrepreneurial in nature," and notes that costs borne by a worker to perform a job, such as tools and equipment, are not capital and entrepreneurial, and instead indicate employee status. Additionally, the proposed rule provides that a worker's investment should be considered on a relative basis with the employer's investment in its overall business.
3. **Degree of permanence of the work relationship.** This factor examines whether a work relationship is indefinite in duration or continuous, which suggests employee status. Or, whether the relationship is definite in duration, non-exclusive, project-based, or sporadic, which suggests independent contractor status.
4. **Nature and degree of control.** This factor considers the employer's control, including reserved control, over the performance of the work and the economic aspects of the working relationship. The more indicia of control by the employer favors employee status and the more indicia of control by the worker favors independent contractor status. There are several facts relevant to the employer's control over the worker, including:
    - Whether the employer sets the worker's schedule, supervises the performance of the work, or explicitly limits the worker's ability to work for others.
    - Whether the employer uses technological means of supervision (such as by means of a device or electronically), reserves the right to supervise or discipline workers, or places demands on workers' time that do not allow them to work for others or work when they choose.
    - Whether the employer controls economic aspects of the working relationship, including control over prices or rates for services and the marketing of the services or products provided by the worker.
    - Whether the employer implements compliance with legal obligations, safety standards, or contractual or customer service standards.

Continued on next page



Department of Labor Proposes New Rule for Independent Contractor Status (cont.)

5. **Whether work performed is an "integral" part of the employer's business.** This factor considers whether the work performed is an integral part of the employer's business. It does not examine whether any individual worker in particular is an integral part of the business, but rather whether the function they perform is an integral part. This factor weighs in favor of the worker being an employee when the work they perform is critical, necessary, or central to the employer's principal business. This factor weighs in favor of the worker being an independent contractor when the work they perform is not critical, necessary, or central to the employer's principal business.

6. **Skill and initiative.** This factor considers whether the worker uses specialized skills to perform the work and whether those skills contribute to business-like initiative. Employee status is indicated where the worker does not use specialized skills in performing the work or where the worker is dependent on training from the employer to perform the work. Where the worker brings specialized skills to the work relationship, it is the worker's use of those specialized skills in connection with business-like initiative that indicates that the worker is an independent contractor.

Finally, the proposed rule notes that additional factors may be relevant if they indicate whether the workers are in business for themselves, as opposed to being economically dependent on the employer for work.

None of these factors has a predetermined weight and all factors are considered in view of the economic reality of the whole activity. Most notably, the proposed rule restores consideration of a worker's investment in a business as a standalone factor and it provides additional analysis of the control factor (including detailed discussions of how scheduling, supervision, price-setting, and the ability to work for others should be considered). It also restores the DOL's prior interpretation of the "integral" factor, which considers whether the work is integral to the employer's business.

This note is for informational purposes only and not for the purpose of providing legal advice. You should contact your legal counsel to obtain advice with respect to any particular issue or problem.

BOARD MEMBER SPOTLIGHT



Jennifer Zimmer

Jennifer serves as the Professional Development chair for the EHRA Board of Directors. Her responsibility includes chairing the team of volunteers who put on our annual fall professional development conference. In case you missed it, this year's conference was held in October at Bally's Evansville and welcomed five wonderful presenters who spoke on a variety of topics geared towards HR professionals, as well as a number of vendors/sponsors. We are already working on next year's event and hope you will make plans to join us.

Jennifer has a number of years' experience in HR. Currently she is the Director of Human Resources and Internal Communication for CountryMark Cooperative Holding Corp. Jennifer has her Bachelor's degree in Business Administration from the University of Southern Indiana, her Master's degree in Business Management from Oakland City University, and a second Master's degree in Business Administration (MBA) also from the University of Southern Indiana. She is a SHRM-SCP and facilitates a portion of the prep course for SHRM certification. She also serves as an adjunct professor in the School of Business.

In addition to the EHRA Board of Directors, Jennifer serves at the state level for HR Indiana as the Operational Effectiveness Director. Jennifer received the 2021 State Council Volunteer of the Year award.

Both the local and state HR organizations are a wonderful opportunity for volunteerism and Jennifer welcomes anyone who would like to serve to contact her.



CLASSIFIEDS: JOB POSTINGS & HELP WANTED ADVERTISEMENTS

Help Wanted Advertisements

Companies, Recruiters, and Human Resources Professionals who are seeking applicants for human resource positions may place "Help Wanted" advertisements on the EHRA website. The advertisement, which will run for 30 days, will appear on the EHRA Jobs webpage that can be viewed by the general public. This option also provides additional reach with posts made on the EHRA Facebook, Twitter, and LinkedIn social media pages.

The following rates apply for "Help Wanted" Advertisements:

- SHRM Members: $100/30 days
- Non-SHRM Members: $200/30 days
- Staffing Agencies: $250/30 days

To place a "Help Wanted" job listing, click here and complete the online form. The Communication Chair will review the submission and contact the employer submitting the application. Once the posting has expired, the Communications Chair will contact the employer with an invoice and information on payment.

Job Wanted Advertisements

Members of EHRA who are seeking new career opportunities may place "Job Wanted" advertisements on the EHRA website. The listing, which will run for 30, will appear on the Job Link webpage viewed only by active EHRA members who are logged into the website. If the EHRA member placing this advertisement would like for the listing to be confidential, the EHRA Communication Chair will serve as liaison between the member and interested employers.

These advertisements are free of charge for EHRA members.



EHRA is looking for sponsors for our Monthly Meetings.

Sponsorship provides many benefits including presenting your business to the meeting attendees .

Contact Samantha at samantha.witte85@gmail.com for more details!

Fall Conference Photos





What's Happening at EHRA

2022 board

President
Amanda Gries
agries@kellerschroeder.com

Secretary
Jessica Bailey
jessicabailey@berryglobal.com

Treasurer
Dana Pool
dpool@scvl.com

Membership Chairperson
Erika Maurer
emaurer@prorehab-pc.com

SHRM Liaison and Certification Chairperson
Mary Thompson, PHR, SHRM-CP
metst53@hotmail.com

Web Chairperson
Julia Pillow
juliakpillowhrin@gmail.com

Newsletter Editor
Jason Fertig
jfertig@usi.edu

Diversity Chairperson
Madeline Smith
madeline.smith@countrymark.com

Workforce Readiness Chairperson
Josh Gessling
jgessling@kddk.com

Professional Development
Jennifer Zimmer
jennifer.zimmer@countrymark.com

Finance Chairperson
Samantha Witte
samantha.witte85@gmail.com

Communications Chairperson
Katie Kissel
katie.kissel@phrehab.com

Legislative Affairs Chairperson
Olivia Robinson
Olivia.robinson1@valpo.edu

College Relations Chairperson
Melanie Reed
mreed@scvl.com

Past President
Wendy Gumbel, PHR, SHRM-CP
wendy.gumbel@encompasshealth.com