



November Meeting

Wednesday,
November 12th

Decatur Country Club

\$15.00

11:45 am — 1:00 pm

Networking will begin at 11:15 a.m. and the program will start at 11:45 a.m.

If you **RSVP** that you are coming and then you don't attend, you will still be charged for the meal.

If you are unsure about attending and paying for a lunch, you can always save-a spot for the salad bar.

For reservations, contact

Patti Fowler at

pfowler@alliancehrservices.com



November Newsletter



November 12, 2014

“Legislative Meeting”



Our Speakers:

State Representative Terri Collins

State Representative Ed Henry

Representative Terri Collins was elected to the Alabama House of Representatives on November 2, 2010 serving the 8th District (Morgan). She worked for First American Bank for 15 years and then opened TLC Solutions, which is a training and consulting business.

Representative Collins is a member of the Board of Directors for the Volunteer Center of Morgan County and mentors students. She is married to Tom Collins and they have three children. She is a member of Wesley Memorial United Methodist Church.

Committees:

- Ways and Means Education
- Technology and Research
- Economic Development and Tourism

Representative Ed Henry was elected to the Alabama House of Representative on November 2, 2010 serving 9th District (Cullman, Marshall and Morgan).

Committees:

- Technology and Research
- Health
- Education Policy

Gender Identity, Sexual Orientation, Sexual Harassment and Retaliation

Courtesy of Lehr Middlebrooks & Vreeland, P.C.

In the recent case of *Bennefield v. Mid-Valley Healthcare, Inc.* (D. Or. Aug. 2014), the court ruled that a nurse who complained about being called a “stupid lesbian” and a “disgusting lesbian” by fellow employees has a valid retaliation claim under Title VII, as she was terminated after reporting the behavior she considered harassing because of her sexual orientation. Although fewer than half of all states have statutes prohibiting discrimination based upon sexual orientation and gender identity, plaintiffs’ attorneys and the EEOC argue—with some success—that Title VII’s prohibition of sex discrimination covers sexual orientation and gender identity discrimination. Thus, employers should be prepared for addressing workplace behavior issues directed toward employees based upon gender identity and sexual orientation.

First, let’s review some definitions. Gender identity is where an individual identifies with a gender other than their biological sex. Gender identity cases have succeeded under Title VII for years under the label of sex stereotyping. For example, a female employee who curses, doesn’t wear pink, and doesn’t wear makeup is criticized for her lack of femininity; or a sharp-dressing male who prefers Bravo! to ESPN isn’t promoted to foreman because he lacks the masculinity required to lead “the guys.” Both of these scenarios could qualify as legal harassment or discrimination under Title VII, and, unless the employer takes prompt, remedial action if the employer is aware of such harassment, the employer may face liability for that behavior.

From this success, attorneys, activists, and agencies have tried to reach sexual orientation, which is defined as one’s physical attraction to the same and/or opposite genders. Even in states where there is not a statute prohibiting sexual orientation discrimination, sexual orientation discrimination often is alleged in the context of broader sex discrimination claims. As the Court stated in *Henderson v. Labor Finders of Virginia, Inc.* (E.D. Va., April 2, 2013):

Of course, it is often difficult to draw the distinction between discrimination on the basis of gender stereotyping and discrimination on the basis of sexual orientation. After all, sex stereotyping is central to all discrimination: Discrimination involves generalizing from the characteristics of a group to those of an individual, making assumptions about an individual because of that person’s gender, assumptions that may or may not be true. Stereotypical notions about how men and women should behave will often necessarily blur into ideas about heterosexuality and homosexuality. A homosexual male exhibiting an attraction toward other males in the workplace would not be behaving as a man would stereotypically be expected to behave. The distinction is further complicated by a trend of advice encouraging homosexual plaintiffs who are discriminated against based on their sexual orientation to bring Title VII claims under a gender-stereotyping theory.

Sexual stereotyping includes expectations of clothing and appearance. Employers have the right to require that employees use restrooms and locker rooms of their biological sex. Taunting or belittling behavior based upon gender identity or sexual orientation should be handled as a form of sexual harassment that is prohibited under employer policies and investigated and dealt with accordingly.

From this confusion and proliferation of state and local laws prohibiting sexual orientation discrimination, it is easy to see how the *Bennefield* court—and courts like it in the past and future—found that a complaint against “straight up” sexual orientation discrimination was protected conduct under Title VII, even though sexual orientation is not a protected category under Title VII.

Minimizing the Risks of Workplace Violence

Courtesy of Lehr Middlebrooks & Vreeland, P.C.

September 23, Birmingham, Ala.: A recently-terminated employee shoots two supervisors and himself at the UPS Customer Center.

September 24, Moore, Okla.: A recently-terminated employee beheaded one employee and stabbed another.

September 26, Chicago, Ill.: An O'Hare Airport Air Traffic Control employee sets a fire in an air traffic control center, snarling air traffic in the U.S. for days.

These three events illustrate that there is no safe industry or worker classification and no fool-proof policy or practice when it comes to preventing workplace violence. A violent worker may be a white collar computer geek, a blue collar delivery driver, or a "no-collar" food processor. That we know of, only one of these employees had a recent criminal conviction for a violent offense. That we know of, one passed a background investigation sufficient to enable him to work in air traffic control. As far as we know, only one of these employees had given a warning before committing his violent act. In Alabama, a gun was the tool of the perpetrator; in Oklahoma, a gun was wielded successfully in defense of others.

So, what can employers do to minimize these risks? Understand the relationships and situations from which violent incidents arise.

Recognize that the primary relationship leading to violence in the workplace is a relationship between an employee and a domestic partner, who is often not employed by the employer. In many workplaces, employers can curb this type of violence by implementing and enforcing security measures (private employee parking, controlled visitor entrances, sign-ins, badges). In every workplace, employers can provide leave for abused employees to seek restraining orders, counseling, or to attend criminal proceedings against an abusive partner. In some states, these measures are required by law.

A more situational risk relationship is between third parties and the employee. The risk in this relationship is most pronounced in banking and retail, or anywhere there is an accessible source of cash or items of value (like prescription drugs). Security and preventative measures (like panic buttons, security monitoring, and video cameras or the appearance thereof) can deter this type of violence. The co-worker relationship is the most shocking—and rare—relationship out of which a violent incident arises. Solid harassment policies that go well beyond the legal definition of harassment to cover bullying and threats will encourage employees to report suspicions. Training supervisors not to discount employee concerns or warning signs about co-workers is also an important step. Policies deterring workplace romance and bringing legal or illegal items of value on the employer's site will help prevent disputes over love or money. Offering EAPs or counseling to a struggling employee may prevent a conflict from escalating (though the phrasing of this offer should be careful to avoid ADA issues). You have the right to be wrong when being proactive on concerns of employee violence. As the police say, "it is better to be tried by twelve than carried by six."

Volunteers Needed for the Job Group

Volunteers are needed to do presentations for the November and December meetings for the Job Group.

Dates: Tuesday, November 18 5:30 pm and Tuesday, December 16 5:30 pm

Where: Decatur Public Library

Subjects can be on interviewing, job search, how to apply at a specific local company, what skills are most needed in this area and how to obtain them, networking in this area (what events should they attend or groups to join, etc.), how to dress for the interview, volunteering, and resume writing.

CCC Pantry Items Needed

Please bring pantry staple items in support of the Women's Chamber initiative for The Committee on Church Cooperation. The CCC's pantry is low on flour, sugar, corn meal, baking powder, baking soda, salt & pepper, and etc. Remember those in need during the time of Giving

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- **Friday, November 21, 2014**
Innovations in Wellness Conference at the UAB Alumni House
- **Thursday, December 4, 2014**
Christmas Party at Vittone's (more details coming soon)
- **January 31, 2015**
TVC-SHRM Membership Renewal Form Deadline
- **Every 1st Wednesday**
Workforce Coalition meeting at The Chamber of Commerce
(Contact Taylor Simmons- taylor@dcc.org for more info)

Please contact **Tiffany Weaver** at tweave@ascendmaterials.com if you have an upcoming event that you would like to add.

In lieu of our normal meeting in December, we will have our annual holiday party at Vittone's in Decatur. Hope to see everyone there!



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