

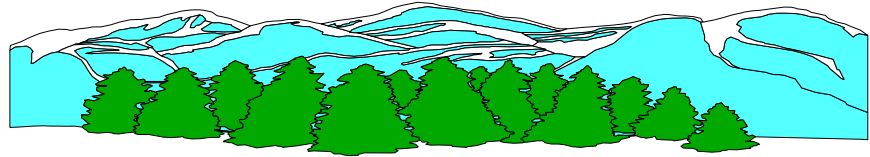
DECEMBER 15, 2004

NEW RIVER VALLEY SHRM CHAPTER

AFFILIATE OF



www.nrvshrm.com



Board of Directors

LORRAINE WASCHMAN

President 443-3444

lwachsman@warmhearth.org

JIM HUNGATE

President-Elect 557-5323

jhungate@kaydon.com

BRENDA FARMER

Chapter Membership 980-1423

brenda@brightservices.net

CINDY HALE

Interim/Treasurer 552-3515 x 307

cmhale@hhhunt.com

TERESA HARLESS

Secretary 558-0721

tharless@blacksburg.gov

CHRISTY PORTERFIELD

Diversity Coord. 231-8060

christyp@vt.edu

JAMES COWAN

Legislative Coord. 961-2600

cowan@flippindensmore.com

MARY ALICE WHISENANT

Member at Large 674-3590

mwhisenant@tmdfrictioninc.com

BRUCE JENNINGS

Industrial Liaison 674-7461

bruce.jennings@volvo.com

MELISSA ZIENIUS

Shrm Foundation Rep. 980-7233

melissa@hoovercolor.com

MIKE AAMODT

Student Chapter Liaison

831-5513 maamodt@radford.edu

KATHY JANOSKO

Web Site Administrator

443-3377 kathy@ali-inc.com

JOHN YEARICK

Social Committee Chair

394-3321

advantagejcy@earthlink.net

Greetings From The President

Happy holidays to all of you, and best wishes for a happy, healthy new year! I can hardly believe that the year 2004 is ending. The chapter has had a busy year. Many thanks to the board for all of their efforts and support this year—they are a terrific group of volunteers! Thanks also to all members: you are what the chapter is all about.

Congratulations to the new board for 2005:

| | |
|-----------------------------|--------------------------|
| President | Jim Hungate, SPHR |
| President Elect | Mike Driscoll, SPHR |
| Membership Director | Brenda Farmer |
| Secretary | Teresa Harless |
| Treasurer | Keith LaShomb, SPHR |
| Diversity Coordinator | Christy Porterfield, PHR |
| Industry Liaison | Bruce Jennings |
| Legislative Coordinator | Jim Cowan |
| Web Site Administrator | Kathy Janosko |
| SHRM Foundation Coordinator | Melissa Zienius |
| Student Chapter Liaison | Mike Aamodt |
| HRCI Coordinator | Cindy Mikoychik, PHR |
| Member at Large | Karen Edmonds, SPHR |
| Member at Large | Cindy Hale, SPHR |
| Member at Large | Chuck Swain, PHR |
| Past President | Lorraine Wachsman, PHR |

I am excited that Jim Hungate will be assuming the Presidency this coming year. I wish him and the 2005 Board of Directors the very best success.

The holiday social at the Farmhouse on December 2 was great! Lots of folks were there, and the silent auction raised \$400 for the chapter's scholarship fund. We had a good turnout for the Diversity Workshop, our HR Roundtable at the Farmhouse in November. Christy Porterfield, chapter diversity coordinator, did a great job along with Dr. Ben Dixon, in presenting Virginia Tech's unique diversity training program. Thanks to both for sharing their expertise. Thanks also to Cindy Schilling, MBA, of Transformation Systems Inc. (TSI) for coming to our November meeting to talk about "Motivating the workforce" as it relates to HR.

Don't forget to get in your membership renewal by January 14 to be eligible for the Winter Getaway drawing in January. And be sure to come to the January meeting at the Hampton Inn for a program on workers comp by Dr. Richard Wilson, of Ability Physical Medicine & Rehab.

Have a Happy Holiday Season!

Best wishes and thanks again,

Lorraine

Announcements

nrvshrm.com JOB DATA BANK

The Chapter now has a new job posting area on the web site. Members may begin placing job postings immediately. The data bank can be found under the "Position Postings" link on the web site. Please use the following guidelines when submitting a posting:

Guidelines to Post Vacancies

1. All postings should be submitted by e-mail via the website to Kathy Janosko, Web Site Administrator (kathy@ali-inc.com)
2. There is a 30 day posting limit unless notified to remove sooner.
3. We accept HR related postings only.
4. NRV-SHRM is not responsible for editing the job posting. We reserve the right to determine appropriateness. NRV-SHRM does not endorse any advertiser/submission.

There is no charge to members of NRV-SHRM.

ARTICLES FOR SHRM NEWSLETTER

Articles for each month's newsletter are due on the last Tuesday of the previous month. Articles for the January newsletter are due December 28th. They may be sent to the Chapter's secretary, Teresa Harless, at tharless@blacksburg.gov. Teresa's telephone number is 540-558-0721.

CHAPTER FINANCIAL REPORT

| | |
|--|------------|
| Beginning balance as of October 31, 2004 | \$9,243.91 |
| Ending balance as of November 30, 2004 | \$8,949.77 |

[Visit nrvshrm.com for a detailed listing of transactions.](#)

BOARD MEETING MINUTES

November 9, 2004

Attending: Lorraine Wachsmann, Christie Porterfield, Kathy Janosko, Mike Aamodt, Keith LaShomb, Jim Cowan, Jim Hungate, Cindy Mikoychik, Brenda Farmer, Karen Edmonds, Cindy Hale, Michael Driscoll

- The President thanked the board members for their service all year, and welcomed new board members for 2005.
- NRV SHRM Community Connections program is scheduled to start in November. Rita Turpin will meet with Job Readiness classes in Dublin and Lorraine Wachsmann in Christiansburg, to provide insight for students in ways to obtain, and successfully retain, employment.
- Next chapter meetings will be November 18, 7:30 a.m. at Hampton Inn. The board agreed to hold the January 20 chapter meeting at the Hampton Inn, and plans to discuss and decide on the location and time of meetings for 2005 at the first board meeting of 2005. L. Wachsmann suggested a program on workers comp for the first January chapter meeting and the board agreed.
- The Diversity Workshop held at the Farmhouse on November 3 went very well. The total cost to the chapter was \$273.76.
- Plans for the holiday social at the Farmhouse on December 2 have been finalized. There will be a silent auction with donated prizes. Invitations have been printed, to be mailed to all members by November 15. The cost for the invitations was \$109.96, plus postage. The board approved continuing the practice of presenting a gift card to each board member who served in 2004.
- The board approved offering a prize as an incentive for a renewing membership, or joining, the chapter before December 31. Estimated expenditure \$125.

Legislative Update

NLRB ISSUES NEW GUIDANCE ON EMPLOYEE FREEDOM OF EXPRESSION RIGHTS

By: Clinton S. Morse, Esq.

LeClair Ryan Flippin Densmore

Although private sector employees enjoy no free speech protections against their employers under the First Amendment of the Constitution, Section 7 of the National Labor Relations Act provides nonsupervisory employees broad statutory rights to self-expression in the workplace:

Employees shall have the right to self organization, to form, join or assist labor organizations to bargain collectively through representatives of their own choosing and to engage in other concerted activities for the purpose of collective bargaining or mutual aid or protection. 29 U.S.C. § 157 (emphasis added).

The highlighted portion of Section 7 clearly provides both **union and nonunion** employees a wide range of free speech rights to criticize their employers and the terms and conditions of their employment. Employers are often startled to learn that Section 7 affords employees the right collectively to refuse to work in protest of the terms and conditions of their employment or otherwise to verbally criticize and oppose working conditions using language that might appear to be disruptive, disrespectful and insubordinate. However, employees who engage in such conduct as a group or an individual employee speaking expressly or implicitly for a group or who is soliciting coworkers to oppose conditions of employment are specifically protected from discipline or discharge under Section 7 of the Act.

Employees who express their Section 7 rights in a profane, abusive or harassing manner create even more complicated problems for employers. Employees who behave in this manner may lose their Section 7 rights and are, hence, subject to discipline. But in the past, it has been very difficult for employers to correctly judge whether an employee has acted in such egregious fashion so as to have engaged in unprotected activity. Compare Trus Joist MacMillan, 341 NLRB No. 45 (2004) (employee criticizing terms of employment lost protection of the Act by repeatedly calling a manager “liar,” “lying bastard” and “prostitute” and making vulgar gestures in front of other managers); Aluminum Co. of America, 338 NLRB No. 3 (2002) (employee’s repeated and profane outbursts, including repeated use of the “f” word, in protest of working conditions caused the employee to lose the protection of the Act), with Winston-Salem Journal, 391 NLRB No. 18 (2004) (employer violated Act by discharging employee who repeatedly referred to supervisor as a “racist” and a “bastard redneck son of a bitch” in the course of protesting working conditions); Felix Industries, Inc., 331 NLRB No. 12 (2000) (employer violated Act for discharging employee for referring to supervisor as a “[expletive deleted] kid” three times in dispute over the meaning of collective bargaining agreement). The Board’s determination in such cases has turned on a review of all of the facts and circumstances which has left employers little guidance in determining whether employees have expressed themselves so profanely and abusively as to lose the protections of the Act.

Employers have had equal difficulty in seeking to control employees exercising their Section 7 rights “to form” unions by harassing their coworkers to join them. The National Labor Relations Act expressly protects the rights of employees “to engage in or to refrain from engaging in union activity” and, hence, employees who refuse to sign union authorization cards or refuse to support union organizing activities are statutorily protected from harassment under the NLRA to the same extent that employees are protected from harassment because of their race, color, religion, sex and national origin under Title VII of the Civil Rights Act. Amazingly, however, the Board in the past has treated employer efforts to stop pro-union employees from harassing coworkers to force them to join an organizing campaign as a per se violation of the Act. See Bloomington – National Seeding Co. v. NLRB, 357 F.3d 692 (7th Cir. 2004) (Board held employer violated the Act by asking employees to report to the Company “if you are threatened or harassed about signing a union card”); RCN Corp., 333 NLRB 295 (2001) (The Board has long held that “persistent union solicitation is an activity protected by the Act even when it disturbs or annoys the individuals being solicited.”); Frazier Industrial Co., 328 NLRB 717 (1999) (employer violated Act by discharging employee who repeatedly solicited coworkers; persistent solicitation did not amount to unprotected harassment, despite coworkers’ complaints). Thus, the Board’s enforcement of Section 7 rights has run headlong into employer obligations under other employment laws to maintain a harassment-free workplace.

Finally, however, in Martin Luther Memorial Home, Inc., 343 NLRB No. 75 (Nov. 19, 2004), the Board issued a decision which should help employers curb the profane, abusive and harassing exercise of employee Section 7 rights. In that case, the employer maintained rules that prohibited “using abusive or profane language” in the workplace and “harassment of other employees, supervisors and any other individuals in any way.” Both rules were challenged as per se violations of the Act

because they could implicitly restrict the exercise of employee Section 7 rights which might entail abusive or harassing conduct not so egregious as to cause an employee to lose the protection of the Act.

In upholding these rules, the NLRB followed the recent court decision in Adtranz Daimler-Benz Transp., N.A., Inc. v. NLRB, 253 F.3d 19 (D.C. Cir. 2001), in which the court validated an employer's rule banning "abusive or threatening language." In upholding the similarly challenged rules prohibiting "abusive or profane language" and "harassment of other employees," the NLRB in Martin Luther Memorial Home quoted as follows from the court's decision in Adtranz:

The court recognized that employers have a legitimate right to establish a "civil and decent workplace." [Citations omitted.] The court also recognized that employers have a legitimate right to adopt prophylactic rules banning such language because employers are subject to civil liability under federal and state law should they fail to maintain "a workplace free of racial, sexual and other harassment" and "abusive language can constitute verbal harassment triggering liability under state or federal law."

The Board also quoted from Adtranz that "it is preposterous to conclude that employees are incapable of organizing a union or exercising their other statutory rights under the NLRA without resort to abusive or threatening language." And with respect to the argument that the anti-harassment rule could chill union organizing efforts, the Board specifically stated, "Sec. 7 does not give employees an unlimited right regardless of the circumstances to repeatedly solicit coworkers who have asked them to desist."

Simply having a rule will not give employers the right to intrude on employee Section 7 rights. However, following the Board's decision in Martin Luther Memorial Home, supra, employers who promulgate a rule expressly prohibiting profane, abusive or threatening language in the workplace and who seek to enforce their harassment policies to maintain a "civil and decent workplace," will be on much firmer ground when trying to control employees who exercise their Section 7 rights in an extremely disruptive fashion.

Radford Student Chapter Conclude Busy Fall Semester

The Radford University and Virginia Tech student SHRM chapters had a busy fall semester that included speakers, plant tours, and social events. The semester began with NRV-SHRM board members Lorraine Wachsman speaking to the Virginia Tech chapter and Mike Aamodt speaking to the Radford chapter about the advantages of SHRM membership. Both chapters have increased membership and activity this year.

The two student chapters had a joint social early in the semester that also included students from New River Community College who were interested in SHRM. Another joint activity included students from the Roanoke College SHRM who attended a program sponsored by the RU SHRM on unions.

NRV-SHRM members have been active this semester in providing internships, help with school projects (e.g., Bruce Jennings at Volvo), plant tours (e.g., Tiffany Worthington) and speakers at monthly student meetings (e.g., Karen Edmonds, Lorraine Wachsman, Kathy Janosko, Bill Shorter).

Silent Auction to Benefit Scholarship Fund

Many thanks to those who made the silent auction at the holiday social such a success, especially Karen Edmonds and Jim Cowan who came up with the idea and put it all together. Also for the following donations of items to auction off:

| | |
|------------------------------------|---|
| Winter Weekend Get-Away | Jim Cowan of Ryan LeClair |
| | Tiffany Worthington of Chateau Morrisette |
| VT Football signed by Frank Beamer | Sam Camden of VT |
| | Christy Porterfield of VT |
| Aquarium | Mike Driscoll of Tetra |
| Volvo Toy Truck | Bruce Jennings of Volvo |

The auction raised close to \$400 for the NRV SHRM scholarship fund. In the coming year the board will develop guidelines for the use of the scholarship money and make plans to continue to grow the fund.

Invoice for Annual Chapter Membership Dues
Society for Human Resource Management
New River Valley Chapter
January 1, 2005 – December 31, 2005

Part I – Please provide the following information for the Chapter Membership Directory.

Name/Position: _____

Name Preferred for Name Tag: _____

Company: _____

Address: _____

Phone: _____ Fax: _____

E-Mail: _____

Referred By _____

_____ **New Member** _____ **Renewing Membership**

Certification:

_____ PHR _____ SPHR _____ Not Certified

Date of Last Certification _____

(Renewable every 3 years)



Part II – The NRV SHRM Chapter receives financial reimbursement from the National SHRM Organization for every Local Chapter Member who is also a National SHRM Member. Therefore, please provide the following information so we can ensure our records agree with the records of the National Organization.

_____ I am not a National SHRM Member

_____ I am a National SHRM Member (Please provide the information below)

Chapter Affiliation (Chapter Name, City, State) _____

Membership Number _____ Expiration Date _____

Part III – Dues must be received by January 14, 2005 to ensure you will be included in the 2005 Chapter Membership Directory. Dues are as follows:

_____ \$40.00 Annually for National SHRM Members (A discounted rate for National SHRM Affiliation).

_____ \$50.00 Annually for Non-National SHRM Members (Local NRV Chapter Member Only).

_____ \$10.00 Annually for Retired National or Retired Local SHRM Members.

Please make check payable to NRV SHRM and remit with this form to:

Brenda Farmer
Membership Director, NRV – SHRM
c/o Bright Services
1026 East Main St.
Pulaski, VA 24301
Questions?
Call (540) 980-1423 or Email
Brenda@brightservices.net

Part IV – Please provide comments.

What can NRV SHRM do for you?

Please indicate in which of the following areas you would be interested in volunteering –

Membership

SHRM Foundation

Social Events

Industrial Committee

Programs

Wage Survey

Certification

Other (Please Specify): _____