



JAYHAWK CHAPTER

Lawrence, KS #486

# THE RESOURCE

May 2016



## The FLSA: Challenges and Developments

Tuesday, May 10, 2016

Employers are closely following the proposed new federal regulations, which will result in major changes in the law governing certain “white-collar” workers who are currently exempt from the FLSA’s overtime pay requirements. The proposed rules would more than double the current minimum salary level required for many employees to be exempt from overtime and would automatically raise the level annually to provide for any increase in the cost of living. In advance of the anticipated implementation of the new regulations, this presentation offers a brief summary of the proposed changes and some helpful tips regarding actions employers should undertake to evaluate whether, and to what extent, this proposed increase should affect their employee compensation decisions.



**Presenter: Melody Rayl, Fisher & Phillips**

**Melody Rayl** is Of Counsel in the Kansas City office of Fisher & Phillips. Her practice focuses on all aspects of employment litigation and counseling. She has defended employers in individual discrimination, harassment and retaliation litigation from inception through resolution in both state and federal court. Melody has also defended employers in collective action wage and hour disputes and other employment class action litigation. Melody provides training to her business clients on a variety of employment related topics and regularly counsels her clients through difficult situations with an eye to preventing litigation before it occurs. Prior to engaging in the practice of law, Melody served 6 years on active duty in the U.S. Army and 20 years in law enforcement. Melody also served two terms on the Johnson County Community College Board of Trustees, including one year as Chair.

**This event has been approved for 1 hour of Professional Development Credit for SHRM and 1 hour of general credit through the HR Certification Institute (HRCI).**



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**Tuesday, May 10, 2016**

Registration begins at 11:15 a.m. \* 11:15 a.m. Buffet Lunch Available \* 11:45 Opening Business /Chapter Announcements \* 12:00 Presenter \* 1:00 Meeting Adjourned

Location: Maceli’s, 1031 New Hampshire, \*\*Parking is available across the street and in the parking garage at the north end of the block.

Pricing: Member in advance \$20. \$25 after Thursday noon pre-registration deadline or walk in at the door. Guest in advance \$30 if pre-registered by Thursday noon deadline prior to chapter meeting.



**REGISTER ONLINE: [www.jayhawkshrm.org](http://www.jayhawkshrm.org)**



## President's Message

Since the launch of the SHRM certification nearly 25,000 HR professionals have applied to sit for the new exams. Over 92,000 HR professionals now have the SHRM-SCP or SHRM-CP certifications and are focused on developing the skills needed to advance their careers and the HR profession. Are you interested in obtaining your certification?

There are many reasons why you should pursue the SHRM-CP or SHRM-SCP certification. Three ways you and your organization would benefit from your certification are:

- ✓ *Your knowledge will be current and relevant.* Now, more than ever, HR teams are required to assume a greater leadership role, contributing to and advancing their organizations' strategic direction. The certification program covers behavioral competencies and functional knowledge areas within the themes of HR Competencies, People, Organization, Workplace and Strategy. Attaining your certification means you will be ready to take on new roles and responsibilities.
- ✓ *You will learn practical skills that will impact your job immediately.* SHRM certification is the new standard for HR professionals around the globe, as it is among the first to focus on practical, real-life HR information, teaching and testing competencies and knowledge.
- ✓ *Your knowledge and skills will be globally applicable and universally recognized.* We live and work in a global economy and your skills need to be globally applicable and accepted. Earning this credential will give you the recognition and flexibility to use your knowledge, skills and competencies anywhere your organization operates, now and in the future.

Contact Jenny Hiatt, Certification Chair at [certification@jayhawkshrm.org](mailto:certification@jayhawkshrm.org) for more information and be sure ask her about joining the chapter study group. Information about SHRM certification is also available on the [SHRM website](#).

All the Best,  
Debbie Snyder



## SHRM Member Spotlight



**Jenny Laird, PHR, SHRM-CP** is the HR Manager for Entrematic Garage Doors. They are a manufacturing plant in Lawrence with 750 employees on site. She enjoys the people she works with and the variety of tasks she does every day. Jenny transferred to HR from restaurant operations at Wendy's International where they mentored her. She received some great advice from a previous VP – "Delete, Delegate, and Delay. If no one has asked for something in 2-3 weeks, but it's still on your task list, **delete** it. It's clearly not important enough to occupy yours, or the other person's, time. We all have different strengths and only a limited amount of bandwidth. Find others who like the work, are skilled at it, and have more bandwidth – then, **delegate**. We have to learn to prioritize. Others will try to impose deadlines upon you that aren't realistic, so we have to be willing to pushback and potentially **delay** the activity." Jenny moved back to Lawrence 3 years ago to be closer to family and loves spending time with them. She enjoys "deck time" now that it's warmer as well as grilling out with friends and family.

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## Financial Report

Current Assets: 4/27/2016

## CD's:

91-Day	\$	n/a	Checking Account:	\$	14,766.48
182-Day (9/3/15)	\$	n/a	Pay Pal Account	\$	1,658.81
12-months (5/12/16)	\$	8,509.33	Petty Cash:	\$	100.00
			<b>Total:</b>		<b>\$ 25,034.62</b>

Prepared by: Heather Bunker SPHR, SHRM-SCP  
VP of Finance

## Membership

Please take a moment to update your "Membership Profile" in an effort to make our membership directory as much of a benefit as possible, we ask that all members view and update their entry in our directory by May 31st. Keep in mind that our directory allows for members to designate areas of HR in which they practice. It is our hope that publishing of this information will assist with your local networking. On our chapter website (<http://www.jayhawkshrm.org/>) you will need to login by entering your username and password. Once you have logged in, please click on the "Your Account" link (located in the upper-right hand corner) to display your current details. If you wish to make changes, please click on the "Edit" and then the "Personal Information" button. Thank you!

Submitted by: Holly Goodman  
VP of Membership

## March Unemployment Rates/Labor Market Report

Highlights and Quotes: <https://klic.dol.ks.gov/gsipub/index.asp?docid=472>

Kansas Map w/county unemployment rates (not seasonally adjusted unemployment rates):

<https://klic.dol.ks.gov/admin/gsipub/htmlarea/uploads/LR%20Mar2016%20Maps.pdf>

## Certification

### SHRM Certification is not simply a destination - it is a journey.

It's said all the time, but it's true - HR is an industry that is always changing. And keeping up with the latest standards and regulations is necessary to remain compliant and stay ahead. To advance your organization, you need to know where business is headed and how you can navigate toward that direction.

By earning professional development credits (PDCs), you are learning, growing, and moving forward. By working on your competencies, you are increasing your appeal as a candidate, as well as making yourself a more well-rounded professional. It's more than looking good on a resume - maintaining your SHRM-CP or SHRM-SCP is a commitment to yourself and the HR profession.

### [Start Your Journey](#)

### Working together for success!

Are you tired of studying alone? Would you like to join our study group and take advantage of the SHRM Learning System at an affordable price? The SHRM learning system includes the 5 learning modules and the Online Learning Center. Then we want to hear from you, please email Jenny Hiatt @ [certification@jayhawkshrm.org](mailto:certification@jayhawkshrm.org) or see any board member.

A study group... • Creates a set time for studying • Allows you to benefit from the knowledge of other professionals • Helps you learn material better by discussing it • Provides you a support system • Is more fun than studying alone!

### Make the Most of Your Membership

Are you between jobs? Did you know that you keep in close touch with HR with SHRM's **complimentary transitioning** membership?

#### What is a transitioning membership?

SHRM provides active members who are unemployed at the time of their membership renewal a one-time opportunity to extend their membership for up to one year—*at no cost!* This continued affiliation to our loyal SHRM members will help transitioning members stay current on the issues impacting the HR profession and provide the needed resources to assist with their job search.

#### Transitioning Benefits include:

- Full access to SHRM Online ([www.shrm.org](http://www.shrm.org))
- Access to [HR Jobs](#), including job alert e-mails
- Free participation in [SHRM Webcasts](#)
- [Access to HR Knowledge Advisors](#)
- Listing in the SHRM online [member directory](#)
- Subscription to [HR Magazine®](#)
- Access to [HR Templates](#), [Toolkits](#) and [Samples](#)
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- [E-mail bulletins](#) including *HR Week*, topical newsletters and more
- Discounts on [SHRM professional development](#)
- Discounts on [SHRMStore®](#) purchases

For a comprehensive list of member benefits, visit [www.shrm.org/memberkit](http://www.shrm.org/memberkit)  
To apply, please visit [www.shrm.org/members/transitioning](http://www.shrm.org/members/transitioning)

Submitted by: Jenny Hiatt  
PHR, SHRM-CP  
Certification Chair



## Legislative Update

The Legislature returned 4/27/16 for the Veto Session to continue legislative work and finalize actions for this session. Listed are several areas of focus and interest.

### HR Issues

Work Comp Bill HB 2617– requirements related to the Medical Administrator; allow electronic filing; use of chemical testing to determine eligibility for benefits.

### Other Issues

Budget shortfall – the Budget continues to struggle and seems to be the number one concern as legislators return. Projections show continued shortfalls with fewer options to close the gap.

Tax reform – there is growing interest in looking at scaling back the tax cuts introduced in 2012 for LLC's.

School Finance – Waiting on the Court to weigh in. Hope to get to 2017 and past elections to have renewed discussions about how to overhaul the school finance formula.

Efficiency Study Recommendations – Economic Development – may introduce user fees to help support (instead of relying on taxes)

Star Bonds – Debate around whether we are getting 'bang for the buck' or are we just giving away/losing tax benefits in the interest of attracting business.

### National Level

FLSA Overtime Threshold – Hot topic with anticipated 30 – 90 day implementation window once determined.



Submitted by: Dennis Meier, SPHR, SHRM-SCP  
Legislative Affairs Chair





## Supreme Court Broadens First Amendment Protection

Demoted detective who was incorrectly perceived to be supporting a mayoral candidate may bring claim  
by Allen Smith, J.D.

The Supreme Court added another layer of constitutional protection to public employees' political expression on April 26, ruling that the First Amendment protects a worker who was demoted over a misperception about his political leanings.

The decision is a good reminder, especially in an election year, that public employers should not take action against employees for their perceived or actual support of a candidate, said Tamara Devitt, an attorney with Haynes and Boone in Orange County, Calif.

Katherine Garbarino, an attorney with Fisher & Phillips in Louisville, Ky., agreed, saying it was a "cautionary case for public employers," particularly with a "heated presidential election coming up."

### Free Speech

Jeffrey Heffernan claimed he was demoted by the city of Paterson, N.J., from detective to patrol officer, after his bosses assumed he was supporting a candidate for mayor whom the police chief opposed. Heffernan was seen carrying a yard sign for the candidate, but he was picking it up for his bedridden mother and did not support the candidate himself.

Heffernan sued, claiming that his First Amendment right to free speech had been violated.

The lower courts ruled that Heffernan's claim was actionable only if his employer's decision had been prompted by actual, rather than perceived, exercise of his free-speech rights. So because Heffernan had not actually supported the candidate, the courts ruled that his right to free speech had not been violated.

In a 6-2 decision, the Supreme Court reversed, ruling that the employer's motive was what was relevant.

"When an employer demotes an employee out of a desire to prevent the employee from engaging in political activity that the First Amendment protects, the employee is entitled to challenge that unlawful action under the First Amendment and 42 U.S.C. § 1983—even if, as here, the employer makes a factual mistake about the employee's behavior," the court said in an opinion written by Justice Stephen Breyer. Section 1983 is the statute for redressing constitutional and federal statutory violations, according to the Federal Judicial Center, a research and education agency.

When considering the right to free speech granted by the First Amendment, the court determined that the primary focus should be on the supervisor's motive and the facts as the employer reasonably understood them, rather than on the employee's actual activity.

Moreover, the constitutional harm—discouraging employees from engaging in protected speech—is the same whether the employer's action is based upon a factual mistake or if the employer was correct in its assumption, the court ruled.

However, the court noted that there was some evidence that the city may have demoted Heffernan because of a neutral policy prohibiting police officers from overt involvement in any political campaign. The court left it to the lower courts to decide whether that policy existed and if so, if it was followed, and also whether such a policy is constitutional.

### Dissent

Justice Clarence Thomas, in a dissent joined by Justice Samuel Alito Jr., wrote that "federal law does not provide a cause of action to plaintiffs whose constitutional rights have not been violated." He added, "Demoting a dutiful son who aids his elderly, bedridden mother may be callous, but it is not unconstitutional."

However, Devitt said she did not find the dissent to be persuasive, calling it technical, and noting that in California at least, "technical arguments almost never work."

She also said the majority's decision was consistent with retaliation claims, which may be brought even when protected activity is merely perceived rather than actual, as long as the perception is in good faith.

This decision is *Heffernan v. City of Paterson, N.J.*, No. 14-1280 (2016).

Allen Smith, J.D., is the manager of workplace law content for SHRM. Follow him @SHRMlegaeditor.

