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## Knowledge is POWER!

Our plates are FULL as HR professionals! We are juggling as fast as we can to try to keep up with the daily demands of our job as well as the new initiatives our companies have either **a)** let us create, plan and implement or **b)** forced us to proceed with.

We have to keep up and we have to keep up with what is going on around us. Here a few tips I have found extremely helpful and perhaps you will to:

- Visit the [shrm.org](http://shrm.org) website regularly. What a wealth of info at our fingertips! You can choose a webcast, podcast or webinar to become engaged in as well as do some plain ole' reading. Articles that caught my eye recently were: the EEOC chat room regarding Pregnancy Discrimination. I also checked out the pre-prepared HR presentation templates. (They make it sooo easy for us!) Additionally, I found an interesting read regarding the increase in age for dependent coverage and they always like to throw in some tidbits about how to take care of ourselves as HR professionals - an article in particular was entitled "After the layoff". So much great info on one website. Be sure to visit it!
- Network, network, network. As you know, we are extremely cautious in our pursuit of sharing employee references with others. By networking with like professionals, you can put a name with a face and have that contact you deserve as well as your company deserves to obtain a better job reference check from your peers. A great way to network is by attending the CNHRMA meetings **regularly!** We do love to see you there!
- Take the pulse of your currently employed Gen -X'ers and Gen Y'ers....do your recruitment programs speak to this group or are you a Boomer using Boomer techniques that are becoming quickly antiquated????

*Just some food for thought. Keep learning and keep growing....Knowledge truly is power!*

# SHRM RESOURCES

## Don't "Fall Back" on Payroll

*-Taken from SHRM HR Resources*

On the first Sunday in November, most of our clocks will be turned back one hour to mark the end of Daylight Saving Time. If you employ shift workers, you'll want to be sure to pay for all hours worked and include that extra hour, if applicable, in counting total hours worked for overtime purposes.

## State Laws on Time Off to Vote

*-Taken from SHRM HR Resources*

It's time to dust off that "time off to vote" policy and refresh your memory on state law on providing employees with time off to vote. Federal law does not require time off to vote but a majority of states do mandate voting leave time especially where an employee's work hours do not permit sufficient time to vote during poll hours.

## Political Discussions at Work

*-Taken from SHRM HR Resources*

Discussions of controversial issues and displays of partisanship may lead to unpleasant confrontations. While off-duty, employees have the right to engage in partisan discussions, displays, and other political activities. During working hours, however, employees can be prohibited from engaging in political activities by their employers.

*For more information on these topics and others, please visit  
[www.shrm.org/expressrequests](http://www.shrm.org/expressrequests).*

*You must be a member of SHRM to access these articles.*

## CNHRMA Questions and Answers...

As many of you have probably noticed, we have had an abundance of questions from our fellow HR peers!! We think this has been a wonderful tool to have, being able to e-mail questions out to the group and receiving many responses to your questions!! However, due to the high volume of questions, we will no longer be able to offer this through e-mail. CNHRMA would like for the forum portion of our website to begin getting utilized.

We will no longer accept questions through e-mail. We apologize for any inconvenience this may cause you; however, we feel that by using the forum – all members will have access to the questions and answers that go with it!!

Registering your user name and password is easy. Just go to our website at [www.cnhrma.org](http://www.cnhrma.org) and click on the member forum at the top of the homepage. Once the new window opens, you will see the following:

Register or log in:

Username:

Password:

Click on register, from there it will prompt you to fill in a user name, password, etc. Please remember your user name and password, as CNHRMA is unable to recover this information. If you do forget, you will be required to register again. Read the terms and conditions carefully at the bottom of the registration page!!! ***If the forum is misused, we will have no choice but to take it off of the website!!!!*** We hope that this will become a helpful and useful tool in your everyday work and a chance for you to connect with your fellow HR peers!!! If you should have any questions regarding the forum, please do not hesitate to e-mail Tina at [tinafeek@yahoo.com](mailto:tinafeek@yahoo.com)

## Are you certified for your PHR, SPHR, GPHR, CCP & CBP?

If you are certified, the CNHRMA chapter would like to recognize you at our Annual Meeting in November. So we may recognize your certification achievement please e-mail [pmorgan@cccneb.edu](mailto:pmorgan@cccneb.edu) the following information.

Name  
Title  
Company Name  
Company Address  
Certification Type  
Certification Date



Please indicate if you would like your manager to receive a letter informing them of your certification by providing their information below.

Manager's Name  
Manager's Title  
Manager's Address

If you have questions regarding certification, please contact Pennie Morgan at (308) 398-7558 or e-mail [pmorgan@cccneb.edu](mailto:pmorgan@cccneb.edu)

**\*Just a friendly reminder – we will be presenting certificates at our annual dinner meeting in November. Please send in your certification information as soon as possible so that Pennie can begin preparing certificates.**

**THE CERTIFICATION AWARDS WILL BE PRESENTED TO ALL WHO ARE CERTIFIED – WHETHER YOUR CERTIFICATION HAS BEEN RECENTLY OR YEARS AGO... WE BELIEVE THAT YOU DESERVE THIS RECOGNITION!!**



## PRESIDENT BUSH TO SIGN LANDMARK ADA AMENDMENTS, WHICH DRAMATICALLY EXPAND PERSONS COVERED BY THE ADA

The White House issued a press release stating the President looks forward to signing the ADA Amendments Act of 2008 (“ADAAA” or the “amendments”). The ADAAA, which will go into effect on January 1, 2009, will expand the number of individuals covered by the ADA. The new law provides that court decisions, including the Supreme Court’s decisions in *Toyota Manufacturing, Kentucky, Inc. v. Williams* and *Sutton v. United Air Lines, Inc.*, have “created an inappropriately high level of limitation necessary to obtain coverage under the ADA.” The amendments make clear that it is Congress’ intent “that the question of whether an individual’s impairment is a disability under the ADA should not demand extensive analysis” and instead courts should give primary attention to “whether employers have complied with their obligations under the ADA.”


The key provisions of the ADAAA include:

- (1) that courts may no longer take into account the ameliorative effects of mitigating measures in determining if an individual has a “disability”;
- (2) that an impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active;
- (3) that an impairment that substantially limits one major life activity need not limit other major life activities to be a disability; and
- (4) an expanded list of “major life activities,” previously included only in the EEOC’s regulations.

The new law is specifically designed to overturn the Supreme Court’s *Sutton* and *Toyota* decisions, which were viewed as creating an inappropriately high standard for the types of impairments that constitute a “disability” under the ADA. *Sutton v. United Airlines* held that individuals who are able to mitigate the symptoms of their physical or mental impairment with medication or assistive devices are not individuals with a disability. The Court held that the ADA’s definition of disability covered only those individuals who were “presently—not potentially or hypothetically—substantially limited.” The amendments reverses that decision and prohibits courts from taking into consideration mitigating measures such as medication or learned behavioral or adaptive neurological modifications. This provision will invalidate numerous court decisions, such as those that have held that an impairment such as diabetes may not be a “disability” if the symptoms of the diabetes are controlled by insulin or that monocular vision is not a disability if the individual is no longer limited because she has adapted to the use of one eye. The law does, however, make clear that courts may still take into account mitigating measures of ordinary eyeglasses and contact lenses.

The ADAAA also rebukes the Supreme Court’s decision in *Toyota Manufacturing, Kentucky, Inc. v. Williams*. In *Toyota*, the Court held that the ADA needed to be “interpreted strictly,” individuals faced a “demanding standard for qualifying as disabled,” and “major life activities” included only those activities that are “of central importance to daily life.” While the amended act retains the “substantially limited” language of the ADA, it states that *Toyota* interpreted the term “substantially limits” to “require a greater degree of limitation than was intended by Congress.” It also directs the EEOC to change its current ADA regulations to reflect Congress’ intention that impairments that “significantly restrict” a major life activity constitute disabilities. The amendments also include for the first time a list of “major life activities” and “major bodily functions,”

*Continued on page 5*



which includes activities such as “bending,” “concentrating,” and “thinking” and will undoubtedly increase the number of individuals considered to have a disability.

The amendments include very few concrete concessions to employers. The new law clarifies that employers need only provide a reasonable accommodation to an individual who has an actual disability eliminating the argument that employers may need to accommodate perceived disabilities. It also includes a “fundamental alteration” affirmative defense providing that an employer need not grant an accommodation if it would result in fundamentally altering the nature of the goods, services, facilities, privileges, advantages, or accommodations involved.

While the final law is not as far-reaching as previous proposals, it will almost certainly have a significant and long-term impact on employers. Employers have been remarkably successful in securing dismissals of ADA claims based on the argument that the applicant or employee filing the claim was not an individual with a disability. As a result of the new amendments, more employees will be considered disabled under the ADA and will not likely incur the medical expert expense to prove a disability, and significantly more lawsuits will survive pretrial motions resulting in increased defense costs even if the employer is ultimately absolved of any wrongdoing.

Moreover, the number of reasonable accommodations that are requested and must be granted will also likely increase. Employers must be diligent in continuing to engage in the interactive process with employees who request reasonable accommodations and should not be quick to dismiss a request because of skepticism over whether the employee has an actual disability.

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*A special Thank You to Baird Holm’s attorneys for submitting this article to CNHRMA!!*

# SEVEN MYTHS I DEBUNK EVERY DAY IN MY DIVERSITY WORKSHOPS

## QUESTION #1: What is Diversity?

Before we can look at what diversity is all about, we must first understand what diversity is not.

### 1. Diversity is a problem.

**No, it is an opportunity.** Diversity lies for many people beyond what they don't know in an area I refer to as *what you don't know you don't know*. Seizing the opportunity to understand diversity will take you into a new and better realm of doing business.

### 2. Diversity is our Human Resources department's responsibility.

**No, it is my responsibility.** Too many people tell me, "That's not my problem; our personnel people have to handle the diversity issues." Wrong. We all (employees, supervisors, managers) play a significant role. As I partner with my clients, we define and address these roles together.

### 3. Diversity is just about race and gender.

**No, it is much broader than that.** It used to be called cultural diversity but the conversation has become more inclusive. Read on.

### 4. Diversity is about minorities and women in the workplace.

**No, diversity is about your internal (employees) and external (prospective clients) customers.** The approach you take to the diversity in your employee and customer ranks can make or break your company. Multicultural marketing, a relatively recent development in the diversity field, focuses on evaluating your customer base and addressing all your customers' needs.

### 5. Diversity is exclusive.

**No, it is inclusive.** In other words, diversity is about all of us. If you feel diversity is about attacking the white male, you are mistaken. Diversity is not about getting "them" into your corporate culture (assimilation). Diversity is about creating a culture where each individual can thrive and contribute to the organization (integration/multiculturalism).

### 6. Diversity is another fad.

**No way, José.** If you think it is, good luck. Look at your workforce today and compare it to five and ten years ago. Then try to imagine it five and ten years into the future. Do the same analyses for your customer base. Have you seen the demographic projections for the future? It will knock your socks off! The changes we see happening now will continue for the foreseeable future.

**7. Diversity is another version of Equal Employment Opportunity/Affirmative Action.** No, it is very different from EEO/AA. Briefly, the major differences between EEO/AA and Diversity are presented below\*.

EEO/AA	DIVERSITY
Government Initiated	Voluntary (Company Driven)
Legally Driven	Productivity Driven
Quantitative	Qualitative
Problem Focused	Opportunity Focused
Assumes Assimilation	Assumes Integration
Internally Focused	Internally and Externally Focused
Reactive	Proactive

\*Adapted from *Workforce America! Managing Employee Diversity as a Vital Resource* by Marilyn Loden & Judy B. Rosener, 1991, Irwin Professional Publishing.

### QUESTION #2: Why are companies designing and implementing diversity training and development initiatives?

- There is an increasingly diverse customer population.
- There is an increasingly diverse employee population.
- It is important to retain top talent.
- It is necessary to minimize the risk for litigation.
- It is the right thing to do.

### QUESTION #3: How do I hire a diversity consultant?

- Request brochures/literature from all diversity trainers/consultants you can find.
- Review sample diversity training materials.
- Review references.
- Invite all candidates into your organization to deliver a short presentation so you can "test drive" the trainers.
- Never ask, "Can you do diversity training?" Most consultants will say, "Yes." Ask instead, "Have you done it, and for whom?"

### QUESTION #4: What do I need to keep in mind while conducting my first diversity initiative?

- Expect resistance—some employees, such as white males, may initially become offended.
- Be willing to take some heat.
- Understand that the culture will not change overnight.
- Be cautious when forming partnerships with advocacy groups.
- Be ready for surprises when you start probing real issues.
- Be accountable for what you say you are going to do—many people are watching to see what happens.

*Source:* "How to Develop a Diversity Commitment," American Association of Retired People, 601 East Street, N.W. Washington, D.C. 20049

*A special Thank You to Joyce Carroll for submitting this article to CNHRMA!!*