

Assessment Council News (ACN)

President to President

By Michael Blair, Past IPAC President

And Liz Reed, IPAC President



January 2015

Closing Message—Michael Blair, Past President

Welcome fellow IPACers to another issue of the Assessment Council News! It seems like only a few months ago I was coming onboard as the President-Elect, and yet here I am entering my final year and stepping into the Past-President role. Liz Reed is taking over as President and I'm excited for our organization for 2015. Liz is brimming with passion and energy. She has great ideas and the influence to help bring these ideas to fruition. Please read her welcome message below for a sneak peak at what 2015 will bring.

New Officers and Board Members

With your help, we completed our elections for the new officers and board member as we closed out 2014. It is my pleasure to announce that Martha Hennen is our new President-Elect. Martha has served as our Secretary the past two years and is an excellent choice to lead IPAC in 2016. It's exciting to have a President and President-Elect, two of the critical leaders for our organization, who have a history with IPAC, as well as prior board experience. The continuity this brings will be highly beneficial as we continue our evolution and efforts to serve you better. Margaret Barton will be our Secretary for 2015-2016. Margaret brings over 15 years of experience as an applied assessment professional at the U.S. Office of Personnel Management (OPM). She has been an active contributor to IPAC since 2007 and is excited to move from a constituent to officer role. Filling our board member position is Kathlea Vaughn. Kathlea brings both the private and public assessment perspective to the board, having served at IBM prior to her current role at the U.S. Customs and Border Protection. Kathlea was the conference chair in 2014 and was instrumental in the success of our Denver conference. She has already showed her leadership by assuring a smooth transition for the 2015 conference committee.

Welcoming new board members means we have to say goodbye to those who are leaving. Natasha Riley has relinquished her role as board member. During her term, Natasha also pulled double duty as the conference chair for our 2013 conference in Columbus, OH. Natasha (aka Tasha), brought her practical experience in assessment and selection for the State of Oklahoma Merit System to the IPAC board and ensured the interests of state and local agencies were well

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represented. Deb Whetzel is stepping down as her three year presidential term ended in 2014. Deb joined the board in 2012 as a board member, but was soon asked to step in as President-Elect and graciously accepted. This past year, she has provided me with a wealth of advice and support to ensure that my year as President was successful. My sincere thanks to Tasha and Deb for their leadership these past three years as IPAC matured from a stumbling toddler to an ambitious adolescent, ready to take on the world.

New Committee Chairs for 2015

In addition to our officer and board changes, we have several new committee chairs for 2015. Lee Frier has transitioned the HRCI accreditation to James Kurtosis. James is also working on the accreditation requirements for the new competency-based certification being offered by SHRM. Warren Bobrow has stepped down as the Innovations in Assessment Award chair, a position he held since 2010. Meredith Ramsey, who many of you met in Denver this past year, is the new chair for the award. Christopher Nye is the new chair for the Student Paper Competition Award. Chris was the recipient of the award in 2011. He is taking over for In-Sue Oh, who was the interim chair last year following the untimely passing of Lee Freidman in March of 2014. Lastly, the new conference chair for 2015 is Matisha Montgomery. Matisha served as the program chair in 2013 and she has the planning for our 2015 conference in Atlanta well underway.

2014 In Review

As my time as IPAC president comes to an end, please indulge me while I look back at 2014, another excellent year for our organization. Thanks to the efforts of the Board, committee chairs, volunteers, and the membership we achieved many accomplishments including:

- Moving the *Personnel Assessment and Decisions* journal from a concept we funded in 2013, thanks to the generous contribution of the Harry Brull fund, to a reality. In 2014, Scott Highhouse, chief editor and IPAC board member, assembled a top team of associate editors, called for submissions, and is currently reviewing potential articles for the premier issue to be released later this year. For more information, check out the journal page on our website at <http://ipacweb.org/PAD>.
- Our first regional affiliate, the Great Lakes Employment Assessment Network (GLEAN) hosted their second training event. GLEAN, the brainchild of incoming President Liz Reed, has proved a viable model for expanding IPAC's reach and influence on assessment professionals at the local level, including those who may not be able to attend our annual conference.
- Continued improvements and expansion of our website. Led by our IPAC Webmaster, Andrey Pankov, our website was overhauled again this year to provide easier access to the information you need as IPAC members. In addition, we've added an IPAC Conference page providing a one stop shop for all your conference needs. Check it out at <http://ipacweb.org/2015>.
- Another outstanding conference was held in 2014 in Denver, CO. Our theme, Mile High on Big Data, proved to be a hit as we heard from industry experts, leading assessment professionals, and thought leaders on a variety of topics linking big data and talent analytics to assessment. For more on the 2014 conference, please see my summary in the pages that follow and navigate to our website to access many of the presentations (<http://ipacweb.org/library>).
- Planning for our 2015 conference is well underway. The venue, dates, plenary speakers, and pre-conference workshops are set and reviewers are perusing submissions as you read this. Please join us in Atlanta, GA in 2015 for our 6th annual conference as an independent organization and our 40th conference dating back to 1976. For more information visit the conference webpage at <http://ipacweb.org/2015>.
- A new format for students to share their research and application at the 2015 conference. Rebecca Fraser and Matisha Montgomery have introduced the first ever student poster session at an IPAC conference. If you're a student or

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recent graduate, please consider a submission for this inaugural event.

- As discussed above, we welcomed in the 2015 slate of officers and board members, successfully balancing the need for new thoughts and ideas with the need for continuity and bridging with the past.
- John Ford (ACN Editor) and Andrea Pankov (Webmaster) presented a plan to the board to ensure IPAC stays relevant in terms of communication to our members. Look for new content on the website in 2015, as well as continued issues of ACN.
- Lastly, I'm pleased to report that IPAC continues to have a sound financial footing as we move into 2015. The 2014 conference ended in the red, but thanks to the continued efforts of our Financial Officer, Reid Klion, we have a surplus of funds to continue bringing you value as IPAC members.

Call for Volunteers

Would you like to serve on the ACN editorial team? Have a penchant for writing a quarterly column on assessment related topics? ACN needs you! We are looking for two volunteers in particular to serve in assistant editor roles. One would work with advertisements to appear in the CAN. The other would work with our regular article contributors to obtain and place their columns in the newsletter. No prior newsletter experience is necessary. Please contact our IPAC-ACN editor, John Ford at johnf@us.net for more information.

Want an insider's view into a terrific professional conference? Interested in volunteering onsite to get a discounted conference rate? Think you have what it takes to run a successful program? Please contact Matisha Montgomery at Matisha.Montgomery@opm.gov for opportunities to use your passion to help with the 2015 conference.

Got what it takes to lead assessment professionals near and far? Interested in being a leader for IPAC? Want to ensure your voice is heard and help guide our future? Contact Michael Blair at Michael.blair@sprint.com to learn about opportunities to serve as an IPAC committee chair, officer, or board member.

Final Thoughts and Thanks

I want to close by offering my heartfelt thanks to you as members of IPAC. Our organization continues to thrive because of your contributions and continued involvement. As President, I have had the tremendous opportunity to meet many of you this past year in a different light. Some new faces, some old, but always recognizing you as more than just peers and colleagues. You are the future of IPAC and our assessment community. I'm proud to be a member of this incredible organization and humbled that you gave me the reigns to lead you this past year. I look forward to seeing you in Atlanta in 2015. Thank you for being an IPAC member!

To contact me directly, feel free to send an email or connect with me on LinkedIn:

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www.linkedin.com/in/blairmichaeld



Opening Message—Liz Reed, IPAC President

About twenty years ago, along with several City of Columbus colleagues, I attended my first IPAC conference, known then as IPMAAC. Reflecting back, each conference helped us to think beyond current practices while staying grounded with sound assessment measurements. IPAC became the spring board to new and improved testing practices and models for the city. After each conference, we came back with new ideas or reassurances that we were on the right track with our current models. We can look back at each conference and identify what we're doing differently now as a result of a great IPAC workshop, session or general session speech. But what makes IPAC really unique is the people. IPAC is loaded with the amazing mentors, guides, and sounding boards who will quickly take time out of a busy day to assist or share experiences. Before LinkedIn and other social media there was the IPAC list-serve, where we posed questions and received immediate and dynamic responses. That list-serve is still alive and well and serving our IPAC community. The rewards we gained through IPAC enhanced our professional development and resulted in the betterment of the Civil Service Commission, the City of Columbus and beyond.

While each of our experiences and rewards through IPAC membership may be unique, connecting with thought provoking, brilliant, and talented people is the same. Anyone who has attended an IPAC conference has experienced the impact of its people.

Because of the people I met and the knowledge I gained, I feel truly humbled and honored to serve this wonderful organization as president in 2015. My vision for IPAC in 2015 is simple: to share this amazing organization with more assessment professionals. IPAC is a valuable gem, as a member-run non-profit, it is our members—you—who make it great. In 2015 we are letting go of our secret, we're telling others about IPAC—it's time to swagger.

Here's how you can help us achieve this vision.

1. If you have a great idea, practice, or concept, step up and show it off--submit the idea as a session for the next conference, an article for the ACN or as a paper to the Personnel Assessment and Decisions Journal. Let's face it, that's how intellectual types swagger.
2. Attend the 2015 IPAC conference in Atlanta and **invite a colleague**. Invite someone from the next city, someone from grad school, or maybe someone within your own organization. Whoever it might be, I challenge each and every one of you to invite someone who doesn't know much about IPAC to participate in the dialogue.
3. Participate in our LinkedIn network, which is a relatively unexplored and underutilized method of spreading the word about IPAC and learning more about our amazing members.

So many of you have helped to make IPAC the independent and amazing organization that we are today. Thank you for your support as a vendor, sponsor, a board member, committee chair, committee member, reviewer, presenter, leader or organizer. It is your past work and continued involvement that makes us the great organization that we are. As I venture upon this new role serving IPAC as your president, I give special thanks to my most recent predecessors Michael Blair, Deborah Whetzel, and the late, great Jeff Feuquay. Michael and Deb have been encouraging and supporting and are committed to continuing their guidance. Jeff was instrumental in providing direction during my first leadership efforts with IPAC and paved the way for Columbus and our team to host a successful conference. His wit and support will be missed.

Thank you all for a wonderful 2014. I look forward to seeing you all in Atlanta and making 2015 a successful year.

Sincerely,

Liz

It's all about 'Hot Topics & Cool Solutions' at the IPAC Conference in Atlanta, Georgia July 19-22, 2015!



We encourage you to consider one of these exciting opportunities for sharing your Hot Topic or Cool Solution with the IPAC community. For more information about the conference please visit us at www.ipacweb.org or "Like" our [Facebook](#) page, join us on [LinkedIn](#) or follow us on [Twitter@ipacweb!](#) #IPAClanta

Student Poster Session (New this year!)

This interactive poster session will provide students a forum for sharing their research and honing their presentation skills in a conference setting. This is also an opportunity to receive valuable feedback, brainstorm ideas for future research, and identify useful resources from a diverse group of HR and assessment professionals. Students may submit a proposal to present their academic or applied work for this session. Submissions may include completed research, applied projects, or theoretical work. Please view the Call for Proposals at <http://www.ipacweb.org/Call-for-Proposals> for additional details on this poster session. All proposals must be submitted using IPAC's online submission system. Student poster submissions will be accepted until 5:00 PM PST on **February 6, 2015**. Please email the Conference Program Committee at conference@ipacweb.org if you have any questions.

The annual **James C. Johnson Student Paper Competition** recognizes the contributions of students in the field of personnel assessment. Papers must be theses, dissertations, or other student papers that describe original research conducted by the author while a student. The award winner will present the winning paper at IPAC's Annual Conference. The winner will receive \$600 coverage of conference related travel expenses, free conference registration, one-year membership in IPAC, and recognition in the widely read ACN newsletter. In addition, the University Department where the student's research was completed will receive a plaque commemorating the student's IPAC award achievement. Please visit <http://www.ipacweb.org/studentpapercomp> for additional information. The deadline for submissions is **March 6, 2015**. If you have any questions about the submission process, please email Dr. Christopher Nye at nyechris@msu.edu.

The annual **Innovations in Assessment Award** recognizes an individual or team for the development and application of an innovative personnel assessment tool or procedure which resulted in improved effectiveness, efficiencies or cost savings. The award may be given to practitioners, academicians, or students. You can nominate someone in our field who has developed an innovative tool or technique. Individuals and work teams are invited to nominate themselves as well. The individual or team selected to receive the Innovations in Assessment Award will receive a plaque, an invitation to present at the IPAC annual conference, a waiver of the conference registration fee for one individual, and recognition in the widely read ACN newsletter. Detailed information and a nomination form for the 2015 IPAC Innovations in Assessment Award is available for download at <http://www.ipacweb.org/innovationsinassessment>. Submissions will be accepted from **April 13, 2015** through 5:00 PM MST **May 15, 2015**. Submissions and questions may be sent to Meredith Ramsey, M.S., at meredithramsey22@gmail.com or 720-261-7600.

The IPAC 2014 Conference

By Michael Blair

Our 5th independent conference as IPAC, and our 39th conference since our inception, was held July 20-23, 2014 at the Embassy Suites Downtown in Denver, CO. It was our first event in the Mile High City and it was a fabulous success. In all we had 138 registered attendees who took advantage of an outstanding opportunity to network, share content, learn new things, and discuss best practices in a friendly and fun environment. Our attendees were joined by nine sponsors and exhibitors including Booth Research, the Corporate Executive Board (CEB), Oracle, Ergonomics, IPMA-HR, JobApps, Pan, Proctor-U, and NeoGov.

Conference highlights include:

- Plenary addresses from Fred Oswald (Rice University), Kurt Kraiger (Colorado State University), Eden King (George Mason University), Ken Lahti (CEB SHL), and Kevin Murphy (Pennsylvania State University). These rising stars and established veterans in the assessment field wove big data and talent analytics throughout their talks helping to tie our theme throughout the conference.
- Full-day and half-day pre-conference workshops covering test construction, adverse impact, leadership assessment, leadership development, and big data/talent analytics in I/O psychology. Each workshop was approved for continuing HRCI credits for participants.
- A full slate of nearly 40 sessions covering a diverse range of topics such as big data, talent analytics, assessment best practices, job analysis, expert witnesses, practical guidelines and foundational elements of assessment, subject matter experts, and many other topics. Like the workshops, our sessions were HRCI accredited for our attendees.



Martha Hennen and Michael Blair

- The Steven E. Bemis Memorial Award for 2014 was presented to Shelley Langan, a long standing contributor to IPAC.
- The James C. Johnson Student Paper Competition award winner recipient was Christopher Adair, DePaul University, for his paper entitled, *"Interventions for Addressing Faking on Personality Tests for Employee Selection: A Meta-Analysis."*
- Renee Adams, Maria Bane, Jonathan Liepe and colleagues of the Colorado Springs Utilities received honorable mention for the Innovations in Assessment Award for their work and submission entitled *"Redesign of the Assessment Process for Customer Service Representatives."*

Deborah Whetzel was presented with the Clyde J. Lindley Exemplary Service Award for her outstanding contributions to IPAC, especially

- Deborah Whetzel was presented with the Clyde J. Lindley Exemplary Service Award for her outstanding contributions to IPAC, especially

over the last four years.

- A full slate of social activities offering food, drink, networking, and fun including the presidential reception on Sunday evening; an excursion to Lannie's Clock Tower Cabaret, a local landmark, for a night of improvisational comedy; and IPAC's staple, our hospitality suite, was open evenings and nights (and into the early mornings...) attracting a crowd of attendees and generating a variety of highly diverse, spontaneous, and stimulating conversations.

In sum, the 2014 conference had something for everyone from assessment neophytes to assessment codgers and everyone in between. Conference presentations are available on our website at <http://ipacweb.org/library>.



Brian O'Leary presenting Shelley Langan with the Stephen E. Bemis Award

Kurt Kraiger Plenary Address



Maria Bane and Jonathan Liepe Innovations in Assessment Honorable Mention, presented by Warren Bobrow



Panel on Big Data with moderator Martha Hennen and discussants Michael Blair, Ken Lahti, Kevin Murphy, and Fred Oswald



Tomer Gotlib, Elizabeth Reed, and Julie Sampson



Walter Booth with Baker College graduate students Teri Hoenshell and Karen Lewis



Scott Highhouse and Dennis Doverspike



Having fun at Lannie's Clocktower Cabaret

LEGAL WATCH

*By Ryan O'Leary, PDRI a CEB Company
and Brian O'Leary, U.S. Government Retired, Independent Consultant*

Abercrombie & Fitch and the "Look Policy"

The U.S. Supreme Court has agreed to hear an appeal challenging the Tenth Circuit's reversal of summary judgment for the Equal Employment Opportunity Commission (EEOC) in the case of a 17-year old Muslim who Abercrombie & Fitch allegedly refused to hire because her hijab (a veil often worn by a Muslim woman that covers the head and chest) violated the company's "look policy" (*EEOC v Abercrombie & Fitch, U.S. Supreme Court*). At Abercrombie & Fitch salespersons are called "models" and part of the job interview is scored on how one looks. Once hired, the "models" must comply with the company's "look policy" which governs how they dress. The look policy includes bans on things such as excessive makeup or nail polish. The company says its policy is necessary to insure a unified "preppy" brand image.

The case started in 2008 when the plaintiff in the case applied for a job at a Tulsa, Oklahoma store. She was wearing a hijab during the job interview but did not say that, as a Muslim, she wanted the company to give her a religious accommodation that would allow her to wear the hijab one hired. During the interview process, applicant appearance was scored on a 1 to 3 scale. After the interview, the interviewer from Abercrombie & Fitch was told by a district manager that a headscarf would be inconsistent with the company's "look policy" and that the interviewer should change the applicant's appearance score to a score of one. The score change put the applicant one point short of a job recommendation.

The EEOC filed a lawsuit on behalf of the applicant in the U.S. District Court in Tulsa, Oklahoma arguing that Abercrombie & Fitch failed to provide a reasonable religious accommodation to the applicant (*EEOC v Abercrombie & Fitch Stores, Inc*). Employers are required to "reasonably accommodate" an employee's religious observances or practice unless such an accommodation would cause the employer "undue hardship". In July 2011 a jury awarded damages to the job applicant. The court found that, despite the fact that the plaintiff did not request an accommodation during her interview, the retail clothing chain had sufficient notice that a conflict existed between its "look policy" that prohibits headgear and the exercise of religious rights of a Muslim applicant who wore a hijab to her interview and an accommodation should have been made.

Abercrombie & Fitch appealed the ruling and in 2013 the 10th Circuit Court of Appeals reversed the ruling. The Court

of Appeals found that Abercrombie & Fitch had not been informed of the applicant's religious beliefs in a manner sufficient to trigger its duty to offer an accommodation since the applicant never told Abercrombie & Fitch, prior to its hiring decision, that she wore the hijab for religious reasons and that she needed an accommodation for that practice. The court found that fairness to the employer required that the burden be put on the applicant or employee to inform the employer both of the conflicting religious practice and of the need for an accommodation. To hold otherwise, it reasoned, would encourage employers to speculate and guess as to whether a particular practice was religious in nature and whether or not the employee needed an accommodation.

Following the ruling, the EEOC filed a petition to the U.S. Supreme Court arguing that Title VII does not require an employee or applicant to explicitly state that a practice conflicts with his or her religious beliefs. A ruling by the US Supreme Court is expected by the end of June.

Revisiting Background Checks (Again)

Background checks continue to be a source of litigation. In June 2013, we highlighted two lawsuits filed by the EEOC against Dollar General and BMW for allegedly violating Title VII by relying on background checks (*EEOC v. BMW Manufacturing Co., Inc.; EEOC v. Dolgencorp LLC d/b/a Dollar General*). In both, the EEOC asserted that each company discriminated against African American job applicants through the improper use of criminal background checks as an applicant screening tool which were not job-related and consistent with business necessity and resulted in disparate impact. Since then, there have been additional developments related to background investigations in employment contexts.

In the BMW case, the claimants were employees of a company that provided logistical services to BMW. That company conducted criminal background checks, but they were limited to convictions within the past seven years. The company ended its contract with BMW and the employees had to reapply for jobs at BMW and subsequently had to undergo another criminal background check. During that process, several employees were found to have criminal convictions and were told they were no longer eligible for employment. At issue appears to be the duration of time since the conviction. The EEOC stated "The policy is a blanket exclusion without any individualized assessment of

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the nature and gravity of the crimes, the ages of the convictions, or the nature of the claimants' respective positions." While the Fair Credit Reporting Act (FCRA) allows for the use of criminal record checks in screening regardless of the time frame, the EEOC has considered limiting this to seven years. The EEOC alleges that BMW's criminal conviction background check policy disparately impacts African American employees and applicants because BMW does not conduct an individual assessment of the nature or seriousness of the offense, how old the conviction is, or the nature of the claimant's respective positions. Moreover, EEOC claims the policy is not job-related and consistent with business necessity. In the latest action in the case (October 2014), the Federal judge in the U.S. District Court in South Carolina denied BMW's motion to acquire documents from the EEOC related to the EEOC's own policies and practices on background screening for its own employees. The judge ruled that the EEOC's practices were not relevant to BMW's defense.

In October, Dollar General agreed to settle a Fair Credit Reporting Act (FCRA) class action lawsuit for \$4 million dollars (*Marcum v. Dolgenercorp*). The suit was initially filed in 2012 by lead plaintiff Jonathan Marcum who alleged that the discount retailer solicited a background report on him without proper notification and that he didn't get the job as a result of the report. The \$4 million dollar settlement fund will be used to satisfy claims by approximately 112,000 class members who allegedly did not receive proper FCRA employee screening disclosures.

Amid all the litigation, in March the EEOC and the Federal Trade Commission (FTC) co-published new guidance that consolidated the two agencies' rules on background checks. The two technical guidance reports, *Background Checks: What Employers Need to Know* and *Background Checks: What Job Applicants and Employees Should Know* are available on EEOC's website. The fact that EEOC and FTC have collaborated to issue a new set of guidelines suggests that both agencies consider this topic to be a priority and could potentially share information and leads when enforcing laws concerning the use of background checks. Employers are well advised to consider the risks that come with the use of background reports when making personnel decisions.

"Big Action" on "Big Data" in Employment Contexts

Several recent Federal government activities have shown an increased concern over the use of big data. In May, the White House issued a report *Big Data: Seizing Opportunities, Preserving Values* which detailed the results of a 90-day study examining how big data will transform the way we live and work, altering the relationships between government, citizens, businesses, and consumers. A significant finding of the report was that big data analytics have the potential to eclipse longstanding civil rights protections pertaining to how personal information is used in housing, credit, *employment*, health, education, and the marketplace.

In September, The Federal Trade Commission (FTC) hosted a public workshop entitled *Big Data: A Tool for Inclusion or Exclusion?* While no obvious policy initiatives came out of the conference, it seems clear that regulators such as the FTC and EEOC are paying close attention to big data. During the work shop the EEOC's Assistant General, Carol Miaskoff, noted that big data is not inherently discriminatory. However, she went on to say that if measures or factors used to analyze that data are not job-related and consistent with business necessity, and they create a disparate impact on protected classes, an employer's personnel decisions based on big data analytics can violate the law. Ms. Miaskoff also cautioned that employers that look at social media, which could be considered a source of big data, in the screening process might put themselves "in a vulnerable position" because social media offers "a plethora of information about protected statuses." The Chairwoman of the FTC, Edith Ramirez, noted that the FTC is already looking for ways in which employers' use of big data might violate the Fair Credit Reporting Act (FCRA). She cited an \$800,000 fine against Spokeo for violating FCRA by selling profiles on millions of consumers without verifying that the information it sold would be used for legally permissible purposes. Spokeo is a data broker that collects and aggregates data about consumers from a wide range of sources such as phone books, real estate listings, government records, and social media. In this case, Spokeo targeted the sale of these reports to employers and recruiters.

Interestingly, in contrast to the above, in late October the Washington Post reported that the Director of National Intelligence is considering social media in the security clearance process. The DNI is looking into whether the government should do Google searches on people who hold security clearances. They want to determine if publicly available information, such as Google searches, could tip off investigators that someone with access to sensitive government infor-

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mation my turn violent or become a spy. The Washington Post reported that approximately 5 million people hold security clearance and the government is moving toward evaluating security clearance holders all the time rather than checking up on them every few years. Collectively, all of the recent action on big data could be a sign of things to come on the employment law side and users should monitor developments in this area.

EEOC Files Historic Sex Bias Suits for Transgender Workers

In September, the EEOC filed its first ever lawsuits over alleged sex discrimination against transgender individuals. The suits were brought under Title VII of the Civil Rights Act. According to EEOC, Title VII prohibition on sex discrimination includes discrimination based on gender stereotyping. The EEOC filed two separate suits, one in Michigan and one in Florida. In the Michigan case, a funeral home allegedly fired a funeral director and embalmer (who had been with the company for several years) after the individual told her employer and colleagues that she was transitioning to a woman and would start dressing in female attire (*EEOC v. R.G. & G.R. Harris Funeral Homes*). The Florida case involves an Eye Clinic that fired an individual after she started dressing as a woman. The clinic hired the individual when she presented as a man. Allegedly the clinic said it was eliminating her position but hired a male to replace her two months later (*EEOC v. Lakeland Eye Clinic*).

Pay Your Interns! (Said in Your Best Chris Farley SNL *Matt Foley* Voice)

A number of lawsuit have been filed against companies with unpaid internship programs after a June 2013 ruling by a Federal district judge in New York found that Fox Searchlight Pictures should have compensated two unpaid production interns for the 2010 movie *Black Swan*. The two interns had performed basic tasks such as answering phones, getting coffee, and taking out trash. The judge ruled that "Searchlight received benefits of the intern's unpaid work, which otherwise would have required paid employees." The Judge relied heavily on the Department of Labor's guidelines on internships under the Fair Labor Standards Act.

In 2010, the Department of Labor's Wage and Hour Division issued a fact sheet on internships that established internship criteria. The criteria are as follows:

- The internship, even though it includes actual operation of the facilities of the employer, is similar to training which would be given in an educational environment;
- The internship experience is for the benefit of the intern;
- The intern does not displace regular employees, but works under close supervision of existing staff;
- The employer that provides the training derives no immediate advantage from the activities of the intern; and on occasion its operations may actually be impeded;
- The intern is not necessarily entitled to a job at the conclusion of the internship; and
- The employer and the intern understand that the intern is not entitled to wages for the time spent in the internship.

Since the Fox Searchlight Pictures ruling, several settlements have been reached in recent months. In October 2014, NBC Universal agreed to a \$6.4 million settlement involving nearly 6,000 unpaid interns. In the suit filed in Manhattan Federal court, interns who worked on *Saturday Night Live* and other shows brought a class action suit claiming that NBC Universal violated the law by classifying them as non-employee interns and paid them nothing or less than minimum wage when they were actually doing employee work.

In November 2014, Condé Nast agreed to pay \$5.8 million to settle a lawsuit brought by 7,500 former interns. The interns worked at magazines including the *New Yorker*, *Vogue* and *Vanity Fair*. The interns alleged the publisher failed to pay them minimum wage. The magazine's internship program was canceled soon after the lawsuit was filed.

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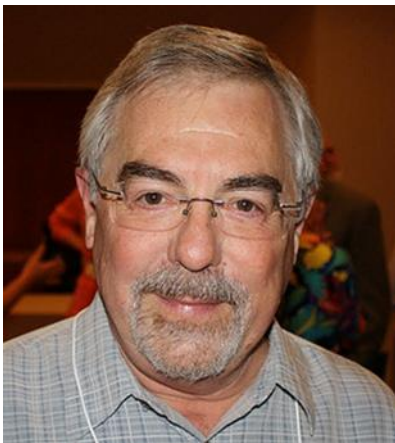
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The result seems to be that, in the last several years, for-profit companies are reviewing their internship programs and eliminating unpaid internships or revising the programs so they are paying minimum wage. It should be noted that unpaid internships in the public sector and non-profit charitable organizations, where the intern volunteers without expectation of compensation, are generally permissible according to the Department of Labor.

This article first appeared in the Quarterly Newsletter of the Personnel Testing Council of Metropolitan Washington (www.PTCMW.org). It is re-printed with the permission of the authors and PTC/MW. The authors write a regular column, Legal Watch, that is published on the PTC/MW website.



In Memory: Jeff Feuquay 1949 – 2014



Jeffrey Price Feuquay, 65, Nevada, MO passed from this life on Monday, December 29, 2014, following a brief illness. Jeff earned his undergraduate degree from University of Oklahoma, his Ph.D. in psychology from the Oklahoma State University and his law degree from the Oklahoma City University. Jeff had a prodigious career including professor at Oklahoma State University; Assistant Administrator for the State of Oklahoma Office of Personnel Management; international consultant representing Oklahoma State University with the World Bank and the Ministry of Education in Amman, Jordan; Director for the Psychology-Law Center, LLC; as well as a practicing attorney.

Jeff was a long-standing and highly active member of IPAC. He was a regular conference attendee and presenter, known for his dry wit and ability to make legal topics and updates interesting. He served as the Conference Chair in 1993, as a Board member from 1993 – 1999 and again from 2011 – 2013, and was our President for two terms in 1998 and 2012. In addition, Jeff was the 2011 recipient of the Stephen E. Bemis Memorial Award acknowledging his accomplishments, impact, and commitment to the assessment field. Outside of IPAC, Jeff was active in his community through his service in the Rotary Club, the Children's Center, Habitat for Humanity, other organizations and civic clubs, and through his work with the United Methodist Church of Nevada, MO.

Jeff is survived by his wife Judy, his three children, and seven grandchildren. A Celebration of Life Service for Jeff was held on January 3, 2015 at the United Methodist Church in Nevada, MO. Those who wish may contribute in his memory to the United Methodist Church, 500 South College, Nevada, MO 64772.

Announcing a New Section for the *Personnel Assessment and Decisions* Journal

By Scott Highhouse, PAD Editor

In July, we officially announced the creation of IPAC's new I-O journal called *Personnel Assessment and Decisions*.
<http://scholarworks.bgsu.edu/pad/>

Personnel Assessment and Decisions is the official journal of IPAC and welcomes any studies or reviews related to staffing organizations and assessing its members. The journal is entirely open access, and is free to both authors and readers. , and has an outstanding group of Senior Editors [Dennis Doverspike, Oleksandr (Sasha) Chernsyhenko, Mikki Hebl, Cornelius König, Nathan Kuncel, Dan Putka, Neal Schmitt, and Mike Zickar].

Since introducing the journal, we have received a number of high-quality submissions, and we hope to have a first issue in the spring. Given the nature of a minority of submissions we received, Dennis Doverspike and I concluded that the Measurement and Measures section, which Dennis edits, would profit from including a new subsection entitled "Practitioner Demonstration Projects." This section should be of particular interest to IPAC members.

Practitioner Demonstration Projects

Format (each section should be 3 pages or less in Word, journal pages would be less).

1. What is the problem or need? Why didn't existing solutions apply? What were some of the constraints in terms of time and cost?
2. What evidence based literature did you rely upon in drafting your solution?
3. What was your solution? (does not have to reveal proprietary information or company secrets but has to provide enough information to be helpful to others)
4. How did you evaluate the results? (can be quantitative, qualitative, or case study - but there must be an evaluation that is professionally thought out and organized and must be more than a simple "people said they liked it")
5. What are some of the ethical, legal and/or professional issues that emerged and how did you deal with them?
6. What is the value to other professionals or companies? To academics? If you are not doing so, would you be willing to make data available to others for use in research, theses, or dissertations?

Considerable emphasis will be placed on applied submissions that are novel, practical, and important. We encourage your submissions. We look forward to our inaugural edition coming soon!



The Personnel Assessment Challenges

By Dennis Doverspike, Professional and Scientific Affairs Committee Chair

IPAC has a journal, *Personnel Assessment and Decisions*. In case you are still unfamiliar with the journal, it welcomes any studies or reviews related to staffing organizations and assessing its members. My personal interest is that I serve as the *Measurement and Measures Section* editor.

In the spirit of the Gates' Grand Challenges, I would like to offer my own set of assessment challenges; except I have no money or resources to empower your research. However, I can suggest interesting areas for research for theses, dissertations, or the practitioner looking to make a contribution.

With regard to public sector testing, most of our concern with assessment relates to entry level hiring or selection for promotion. There are many other areas though where there is a lack of research, but very important questions. These lacunae are the driving force behind my challenges.

First, I would like you to start thinking about the use of tests in areas outside of the typical selection context. Second, I would like to challenge you to consider doing research, reviews, or thought pieces in the following areas:

- Annual Testing
- Return to Work
- Development

Annual Testing

The annual or periodic assessment of current employees is a unique form of testing. Many police and fire departments have considered some type of annual physical examination.

Annual testing is a complex topic, because there are variety of potential legal implications, especially as annual testing may lead to issues involving disabilities, accommodations, and age discrimination related to forced retirements. Nevertheless, my own review of the literature led to the identification of very few articles dealing with the annual testing of current employees.

Love 'em or hate 'em, in selection we have a variety of standards we can turn to including the *Uniform Guidelines on Employee Selection Procedures*. In the area of annual testing, professional guidelines are not as easily identified nor as clear in their application.

This leads to my first challenge – I would like to see research or practical case studies dealing with the use of assessments or tests in annual testing. Can we apply our traditional guidelines and standards to annual testing? If not or even if we can in part, what modifications or adjustments do we need to make? Most critically, is annual testing a good idea?

Return to Work

My second challenge deals with the return to work. The term “return to work” refers to an employee who is returning to his or her previous position after a leave of absence due to an injury, severe illness, or some other personal or work-related crisis. The issues with return to work are very similar to those encountered in annual testing, so perhaps I could have combined them.

When individuals return to work, the organization must assess whether the employee is not only healthy enough but also capable of performing the essential functions of the job. Of course, there are potential legal issues including those related to the *Americans with Disabilities Act Amendments Act*.

Again, there is very little research dealing with the use of or validity of assessments in evaluation for return to work. In part, this may be because such testing traditionally falls to physicians, clinical psychologists, or rehabilitation specialists. As an assessment professional, are you involved within your organization in testing for return to work?

So my second challenge is much like the first -- I would like to see research on the use of assessments in return to work testing. What are some of the practical issues? How do we determine which tests are valid and for what purpose? Should our traditional testing standards apply?

Development

The third use of assessments is in development. Here, I am echoing a challenge made in both the clinical and the coaching arenas. We often pay lip service to the idea of using tests to guide and develop employees, but does it work and if so, what are the factors that lead to success. Certainly, the extant literature would lead us to question whether the feedback of assessment data has any impact

(Continued on page 15)

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on the development of employee competencies. Designing studies can be difficult, because it requires a situation where some employees receive feedback from the test and others do not, but it can be done.

So my third and final challenge – research that demonstrates that the feedback of assessment data improves employee performance, leads to changes in behavior, or leads to improved development.

Final Words

As an update, I might note that as I was writing this I was beginning to see suggestions that one way of dealing with the perceived crisis related to police work and performance would be to implement some type of annual testing. This would seem to me to imply not just physical and psychological testing, but also assessment of knowledge, skills and abilities. Would it make sense to test knowledge of laws, policies and procedures on an annual basis, rather than waiting until incumbents apply for promotions? If so, how could this be implemented?

In case you were wondering, I have no budget, so there are no prizes. A particularly excellent idea may get you a mention in the column, an invitation to submit to the journal, or a drink bought in your honor at the IPAC Conference. I do look forward to your feedback, especially with regard to whether you have any input on these issues in your organizations? Feel free to email or post to my Facebook page.

Ending on a Sad Note

We have lost an irreplaceable member of our assessment community with the recent death of Jeff Feuquay. Jeff brought to IPAC both an exuberance and a passion, as well as a unique skill set in his combination of backgrounds in law and psychology. I came to know Jeff well over the years through our service on various IPAC boards and admired his willingness to give of his own time and energy. I also was jealous of his ability to write and present in a clear and understandable fashion on complicated legal topics. IPAC will miss Jeff's many contributions. We remember Jeff with a great deal of fondness, as he was a mentor, leader, and friend to many in IPAC.

Notes:

Dennis Doverspike is the Chair of the IPAC Professional and Scientific Affairs Committee. He is a Full Professor of Psychology at the University of Akron, Senior Fellow of the Institute for Life-Span Development and Gerontology, and Director of the Center for Organizational Research. He holds a Certificate in Organizational and Business Consulting from the American Board of Professional Psychology (ABPP) and is a licensed psychologist in the State of Ohio. He is a long term public employee and university professor. He can be reached at dennisdoverspike@gmail.com.



Upcoming Conferences and Workshops

January

- Jan 5-7** University of Maryland. Short Course. "Introduction to Structural Equation Modeling." College Park, MD. Contact: www.cilvr.umd.edu/Workshops/CILVRworkshoppageSEM2015.html
- Jan 8-9** University of Maryland. Short Course. "Advanced Topics in Structural Equation Modeling." College Park, MD. Contact: www.cilvr.umd.edu/Workshops/CILVRworkshoppageSEM2015.html
- Jan 9** HR Leadership Forum. Breakfast Meeting. Montserrat Miller, Arnall Golden Gregory, Washington, DC. "Background Checks." Arlington, VA. Contact: www.hrleadershipforum.org
- Jan 14** PTCMW. LUNCHEON MEETING (11:30 am – 1:30 pm). Dr. Meghan Brenneman & Dr. Jennifer Klafehn, Educational Testing Service, Princeton, NJ. "In Search of the Magic Bullet: Assessing Cross-Cultural Competency in the United States Military." GMU, Arlington, VA. Contact: www.ptcmw.org
- Jan 14** NY Metro Association of Applied Psychology. Dinner Meeting. Dr. Rob Silzer, Baruch College, SUNY, & Dr. Allan Church, PepsiCo. "High Potential Leadership Talent." New York, NY. Contact: <http://metroapppsy.com>
- Jan 15** HR Leadership Forum. Non-profit Consortium Event. Breakfast Meeting. "It's All about Compensation, or Is It?" Washington, DC. Contact: www.hrleadershipforum.org
- Jan 15-16** American Psychological Association. National Multicultural Conference and Summit. Atlanta, GA. Contact: www.apadivisions.org/multicultural-summit.aspx
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February

- Feb 6** HR Leadership Forum. Breakfast Meeting. William Shaw, Special Agent, DHS. "Hiring and Immigration: Best Practice." Arlington, VA. Contact: www.hrleadershipforum.org
- Feb 11** PTCMW. LUNCHEON MEETING (11:30 am – 1:30 pm). Dr. Paul Hanges, University of Maryland. Topic to be announced. GMU, Arlington, VA. Contact: www.ptcmw.org
- Feb 12** NY Metro Association of Applied Psychology. Dinner Meeting. Dr. Jose Cortina, George Mason University. Topic to be announced. New York, NY. Contact: <http://metroapppsy.com>
- Feb 18-21** Academy of Human Resources Development. International Conference. St. Louis, MO. Contact: <http://www.ahrd.org>
- Feb 19** HR Leadership Forum. Non-profit Consortium Event. Breakfast Meeting. "Daring Behavior." Washington, DC. Contact: www.hrleadershipforum.org
- Feb 19-21** American Statistical Association. Conference. "Statistical Practice." New Orleans, LA. Contact: www.amstat.org
- Feb 23-25** Human Capital Institute. Conference. "Workforce Planning and Analytics." Dallas, TX. Contact: www.hci.org
- Feb 23-25** International Quality & Productivity Center. Conference. "HR Metrics & Analytics Summit." Orlando, FL. Contact: www.hrmetricsevent.com
- Feb 25-
Mar 1** Society of Psychologists in Management. Conference. Austin, TX. Contact: www.spim.org
- Feb 26-28** Society for Personality and Social Psychology. Annual Meeting. Long Beach, CA. Contact: <http://spspmeeting.org/2015/General-Info.aspx>
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Upcoming Conferences and Workshops

March

- Mar 1-4** Association of Test Publishers. Annual Conference. "Innovations in Testing." Rancho Mirage, CA. Contact: www.testpublishers.org
- Mar 5-7** International Coach Federation. Global Leaders Forum. Atlanta, GA. Contact: www.coachfederation.org
- Mar 6** HR Leadership Forum. Breakfast Meeting. Caroline Adams Miller, Executive Coach. "Leading with Grit and Integrity." Arlington, VA. Contact: www.hrleadershipforum.org
- Mar 6-10** American Society for Public Administration. Annual Meeting. Chicago, IL. Contact: www.aspanet.org
- Mar 11** PTCMW. SPECIAL EVENT! WORKSHOP (8:30 am – 12:00 pm). Speaker to be announced. GMU, Arlington, VA. Contact: www.ptcmw.org
- Mar 13-15** University of Texas at Arlington. IO/OB Conference. Arlington, TX. Contact: www.ioob2015.com
- Mar 23-25** Society for Human Resource Management. Conference. "Law & Legislation." Washington, DC. Contact: www.shrm.org
- Mar 16-19** Institute for Corporate Productivity (i4cp). Annual Conference. Scottsdale, AZ. Contact: www.i4cp.com
- Mar 26** NY Metro Association of Applied Psychology. Dinner Meeting. Dr. Bill Schiemann, Metrus Group, Somerville, NJ. Topic to be announced. New York, NY. Contact: <http://metroapppsy.com>
- Mar 31-
Apr 2** Human Capital Institute. Annual Conference. "Human Capital Summit." Orlando, FL. Contact: www.hci.org/hr-conferences/2015-Human-Capital-Summit/overview
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April

- Apr 3** HR Leadership Forum. Breakfast Meeting. Speaker to be announced. Arlington, VA. Contact: www.hrleadershipforum.org
- Apr 8** LRP Publications. "Federal Workplace Training & Expo." Washington, DC. Contact: www.fedhrtraining.com
- Apr 15-19** National Council on Measurement in Education. Annual Meeting. Chicago, IL. Contact: www.ncme.org
- Apr 16-20** American Educational Research Association. Annual Meeting. Chicago, IL. Contact: www.aera.net
- Apr 19-22** HR People & Strategy. Annual Conference. Miami, FL. Contact: www.hrps.org
- Apr 22-25** Society for Industrial and Organizational Psychology. Annual Conference & Workshops. Philadelphia, PA. Contact: www.siop.org
- Apr 24-29** International Society for Performance Improvement. Annual Conference. San Antonio, TX. Contact: www.ispi.org
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Upcoming Conferences and Workshops

April (continued)

- Apr 27-29** Biostat. Workshop. Dr. Michael Borenstein. "Introduction to Meta-Analysis." Chicago, IL. Contact: <http://www.meta-analysis-workshops.com>
- Apr 27-29** Society for Human Resource Management. Conference. "Talent Management." San Diego, CA. Contact: www.shrm.org
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May

- May 6-9** American Psychological Association. Conference. "Work, Stress, and Health." Atlanta, GA. Contact: <http://www.apa.org/wsh>
- May 14** NY Metro Association of Applied Psychology. Dinner Meeting. Speaker to be announced. New York, NY. Contact: <http://metroapppsy.com>
- May 17-20** Association for Talent Development (formerly ASTD). Annual Conference. Orlando, FL. Contact: www.astd.org
- May 19-20** University of Connecticut. Conference. "Modern Modeling Methods." Storrs, CT. Contact: www.modeling.uconn.edu
- May 21-24** Association for Psychological Science. Annual Convention. New York, NY. Contact: www.psychologicalscience.org
- May 22** HR Leadership Forum. Breakfast Meeting. Speaker to be announced. Arlington, VA. Contact: www.hrleadershipforum.org
- May 28-31** Labor and Employment Relations Association. Annual Meeting. Pittsburgh, PA. Contact: www.leraweb.org
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(Some of the information in this calendar was reprinted with permission from the PTC/MW Newsletter calendar which was compiled by Lance W. Seberhagen, Seberhagen & Associates, sebe@erols.com.)

If you have an item to add to the calendar, please contact the Editor at johnf@us.net or (202) 254-4499.

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About the ACN

The ACN is the official newsletter of the International Personnel Assessment Council, an association of individuals actively engaged in or contributing to the professional, academic, and practical field of personnel research and assessment. It serves as a source of information about significant activities of the Council, a medium of dialogue and information exchange among members, a method for dissemination of research findings and a forum for the publication of letters and articles of general interest. The Council has approximately 300 members.

The ACN is published on a quarterly basis: January, April, July, and October. Respective closing dates for submissions are December 1, March 1, June 1, and September 1.

Submissions for Publication: Prospective authors are invited to send in their articles, research reports, reviews, reactions, discussion papers, conference reports, etc., pertaining to the field of personnel research and assessment. Topics for submission include, but are not limited to:

- Technical
- Practical – lessons learned, best practices
- Legal
- Technology/Tools
- Statistics/Measurement
- Book reviews

Articles and information for inclusion should be submitted directly to the Editor via e-mail, at johnf@us.net. Articles will be accepted only by electronic submission (Word compatible). Submissions should be written according to the *Publication Manual of the American Psychological Association*, 5th edition. The editor has the prerogative to make minor changes (typographical/grammatical errors, format, etc.); substantial changes will be discussed with the author. Submissions more than 1500 words should include an abstract of maximum 100 words, preferably with three keywords.

If you have questions or need further information, please contact the editor.

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