

September 2016



Catherine W. Sanz
President WIFLE

WIFLE 17th Annual Leadership Training Program

WIFLE held its 17th Annual Leadership Training Program on July 18-21, 2016, at the Reston Hyatt, Reston Town Center, in Reston, Virginia. Some of the highpoints this year included:

- Keynote speaker was Vanita Gupta, Principal Deputy Assistant Attorney General and Head of the Department of Justice, Civil Rights Division. Ms. Gupta spoke on the important work that DOJ is doing and its partnership with WIFLE.
- We had three representatives from the law enforcement agencies in Chile attend this year's program. All three were as impressed with the sessions they attended as they were with all of you who attended. It was quite an education for them to be in a location with women from so many different law enforcement agencies.
- Body language expert Janine Driver did an extended class on verbal and non-verbal pre-assault indicators. Attendees learned to spot pre-assault indicators, such as "Psychological Distancing," (clenching, scanning, target glancing, blink rate changing, and delayed responses). They discovered what happens to "Proxemics" when both the civilian and the officer are under stress, and learned to identify the seven universal emotions with a focus on the micro-expressions of contempt, fear, anger, sadness, and "Duping Delight," which can appear on someone's face up to seven seconds before they logically and consciously realize what they are feeling.
- Attendees were enthusiastic about Marcia Thompson's "Analysis of a Leader and What Makes a Good Leader?" The session included case studies on women leaders in law enforcement and in the corporate realm, and highlighted traits that have made them successful. Workshop topics included: (1) how to communicate as a leader within a world of transparency; (2) how to engage your employees - handling difficult conversations and ensuring accountability; (3) effectively handling ethics and integrity concerns; (4) creating and promoting a respectful workplace; and (5) embracing diverse perspectives as a leader.
- Dr. Marisa R. Randazzo, Ph.D., spoke on "An Investigative Approach to Prevent Rampage Shootings, Stalking, and Other Targeted Violence." She reviewed how rampage shootings, stalking, and other types of targeted violence are carried out and explained how prevention is possible. The session also provided a detailed look at Threat Assessment and Management.
- Martina E. Vandenberg, presented "Cutting-Edge Trends in Human Trafficking Prosecutions: Data and Innovation." This session focused on human trafficking in the United States over the last decade, and how we have become far more sophisticated in our use of data. Victim-witness lawyers have also taken a much more significant role in advocating for trafficking victims in federal cases.
- FBI Section Chief Katherine Schweit and Executive Assistant Director Amy S. Hess presented "Active Shooter/Crisis Management and Technology Encryption." The FBI has revolutionized the way law enforcement, emergency medical services and fire personnel approach active shooter situations and unified command structures through its Active Shooter/Crisis Management Program. In the area of Technology Encryption, they reviewed how changes have benefited society, but also inhibited law enforcement's ability to keep America safe. We all need to understand the impact of these changes and how they may change the way we govern ourselves.
- For those who attended Tammy Flanagan's class on retirement, she has posted information on the WIFLE website for you such as the "Retirement Planning Spreadsheet". We encourage you to go to our website at www.wifle.org to download this important and useful information.

Overall, the WIFLE Annual Conference Evaluations were very positive. We appreciate the feedback and were pleased to receive your recommendations to enhance the conference experience in the future. WIFLE is committed to providing our members with the highest level of leadership training, and we embrace a cultural of continual improvement.

Next year's training program will be at the Westin Galleria, in Houston, Texas, from July 31- August 3, 2017. For those unfamiliar with the Westin Galleria, it is actually part of the Houston Galleria Mall, which offers a variety of restaurants and shopping. The Westin is currently undergoing a major renovation. Don't worry, however, it will be completed before we arrive! Click on the link below for a peek at what the renovations will look like. We hope you will join us in Houston. [View Renovation Slide Show Westin Galleria Houston TX](#)

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Fewer sick days means more time doing what you love.

Prevention is the only cure for the common cold. Try these healthy tactics to reduce your risk:

Wash. Rinse. Repeat. Wash your hands often to ward off germs.

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Hold the sugar. It inhibits white blood cells from battling bacteria and viruses.

The flu is a different story.

Between 35 and 50 million people will get the flu this year. Don't be one of them! The flu shot is your best defense.

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Your Federal Benefits Explained

by Sandra K. Harman, President, Harman & Associates, Inc.



FEGLI Open Season

The FEGLI program will hold a rare general Open Season from September 1, 2016 through September 30, 2016; meaning that all employees who are eligible to participate in FEGLI can enroll and/or increase their optional coverage. Employees in non-pay status are eligible to participate in the Open Season. However, any coverage they elect during the Open Season will not become effective until they return to paid duty status.

Employees who are not enrolled in the FEGLI program can elect Basic and any or all of the optional coverages. Employees who are already enrolled in FEGLI can increase their coverage up to the maximum. There is no requirement to prove insurability, pass a physical, answer health questions, or prove a qualifying life event.

Employees can use the SF-2817 Life Insurance Election or their Agency's online portal if available. Employees who currently have FEGLI coverage and wish to increase their coverage must sign for ALL coverage they wish to have, not just the increased coverage. Any coverage not signed for will be cancelled/waived effective with the effective date of the Open Season election.

If you are happy with your current FEGLI coverage you do not need to do anything. Positive enrollment is not required.

Technicalities

#1 -- The FEGLI coverage elected during this Open Season **will not become effective until the first day of the first pay period that begins on or after October 1, 2017** which follows a pay period during which the employee met the pay and duty status requirements.

What Are the Pay and Duty Status Requirements?

A full-time employee on a biweekly pay period must be in pay and duty status for at least 32 hours during the pay period right before the one in which the coverage is to become effective.

A full-time employee on a monthly pay period must be in pay and duty status for at least 64 hours during the pay period right before the one in which the coverage is to become effective.

A part-time employee must be in pay and duty status for one-half of the regularly-scheduled tour of duty shown on his/her current SF 50.

An intermittent employee or an employee without a regularly-scheduled tour of duty who is eligible for FEGLI coverage must be in pay and duty status for one-half of the hours customarily worked in a pay period. Employing offices can determine the number of hours customarily worked by totaling the number of hours worked in the calendar year quarter ending June 30, 2016, and dividing that by the number of pay periods in that quarter.

Please note that sick leave, annual leave, donated leave, or any other kind of leave, whether paid or unpaid, does not qualify as pay and duty status.

New coverage does NOT begin until the employee meets the pay and duty status requirements, even if that is after October 2017. ***For some employees, new coverage will never begin because they will never meet the pay and duty status requirements.***

#2 – In order to carry the increased coverage into retirement, the coverage must be in effect for five full years before day of retirement; meaning that the earliest retirement date would be after October 1, 2022.

Employees can still make regular elections during the Open Season period. None of those rules have changed. Employees may elect Basic, Option A, and/or up to five multiples of Option B based on satisfactory medical evidence of insurability using SF 2822 *Request for Insurance*. Employees may elect Basic, Option A, up to five multiples of Option B, and/or up to five multiples of Option C within 60 days of a qualifying life event.

Regular elections will become effective in the same timeframe that they always do. ***Be sure to use the appropriate “Number of Event Permitting Change” code in Box 6 of the SF 2817 or its electronic equivalent to distinguish a regular election (and its effective date) from an Open Season election.***

Don't increase your FEGLI just because there is an Open Season. Know why you are carrying life insurance.

There are four valid reasons to carry any life insurance; FEGLI isn't the best product for all of them:

1 -- People carry life insurance to cover final expenses – the cost of their burial and settling their estate.

2 -- Transitioning – Some people have assets but they are not liquid (stocks, real estate, or business interests); therefore, they don't want their heirs/beneficiaries selling off assets when the market is negative just to get money to make living expenses.

3 -- Replacement of lost income due to any untimely death – FEGLI works well for this. It routinely applies at the start of one's career when they have few assets, greater liabilities and people dependent upon them. Since FEGLI is decreasing term insurance at age 65 and has double indemnity up to age 35 it fits this reason well.

4 -- To create an estate – Since FEGLI is decreasing term insurance it is not the ideal insurance product to fit this need. Even though FEGLI can be carried into retirement at full value the premium for the optional coverage increases every fifth anniversary of your 35th birthday. It becomes very expensive.



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Absolute Immunity for Testimony in EEO Proceedings? Think Again.

By Peter J. Jeffrey, Esq., Member, The Jeffrey Law Group, PLLC, The Federal Employee's Law Firm®

Title VII prohibits an employer from taking action against an employee because she has "made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing" governed by Title VII. But does this statutory prohibition bar Federal employers from taking adverse action against an employee who gives false testimony in an EEO proceeding? The U.S. District Court for the District of Columbia recently addressed this question in *Ominoba Egei v. Jeh C. Johnson, Secretary, Department of Homeland Security*, 116 LRP 27892 (D.D.C. Jun 24, 2016).

In September 2008, FEMA sent temporary employee Egei to Houston, Texas, in response to Hurricane Ike. Following notice that she would be sent home to await another assignment, Egei alleged that her supervisor

sexually harassed her. Specifically, Egei alleged that on or around October 17, 2008:

[Her supervisor] called her in the evening and asked her to come to his hotel in order to run an errand. According to Egei, however, when she arrived at his room, he emerged from his bathroom "half naked" and asked her to shower with him. When she refused, she claims, he threatened to terminate her, saying, "You might be going home." When she continued to refuse [her supervisor's] advances, he allegedly instructed her to take him to a strip club. Ultimately, Egei claims, she drove [her supervisor] to a nearby print shop, where he obtained directions first to a strip club and then to a nightclub.

Id. (internal citations omitted).

However, at the hearing before an EEOC administrative judge, Egei's testimony significantly differed from her previous accounts. Specifically, although Egei had stated in her formal complaint and in response to interrogatories that her supervisor had attempted to have sex with her on October 17, 2008, FEMA's counsel impeached her with a government travel voucher showing that she had picked up a rental car from the airport during the timeframe in which she alleged she was with her supervisor. Thus, the EEOC administrative judge denied Egei's complaint, finding in part, that "that the alleged events did not occur." *Id.*

About a year and a half after the administrative judge's decision, FEMA terminated Egei's temporary appointment. Specifically, FEMA terminated Egei on the basis of the allegations she had made in her 2008 EEO complaint and her sworn testimony before the EEOC, which FEMA alleged constituted a lack of candor. Egei filed suit alleging that FEMA was prohibited from terminating her for her prior EEO testimony under the anti-retaliation provision of Title VII. Thus, the Court was left to decide whether Title VII shields an employee from adverse action on the basis of any testimony she provides in an EEO proceeding. *See id.*

Adopting the majority view, the Court held "that Title VII's participation clause protects an employee from adverse employment action taken on the basis of the substance of a charge or testimony she makes in the course of her participation in Title VII EEO proceedings." *Id.* (citing and comparing *Glover v. S.C. Law Enf't Div.*, 170 F.3d 411, 414-15 (4th Cir. 1999) (holding that an employee may not be terminated on the basis of statements made during an EEO proceeding), and *Pettway v. Am. Cast Iron Pipe Co.*, 411 F.2d 998, 1007 (5th Cir. 1969) (same), with *Mattson v. Caterpillar, Inc.*, 359 F.3d 885, 890-91 (7th Cir. 2004) (holding that she may be). Specifically, the Court stated, "that it is not possible to permit employers to take adverse action against EEO claimants based on false charges or testimony . . . without chilling truthful charges and testimony." *Id.*

Nevertheless, this absolute privilege held by the 4th, 5th and D.C. Circuit Courts has yet to be tested in a termination for failure to maintain a personnel security clearance, or where a Federal law enforcement officer is found to be *Giglio* impaired, on the basis of her statements made during an EEO proceeding. As the U.S. Supreme Court held in *Department of Navy v. Egan*, 484 U.S. 518 (1988), the MSPB does not have authority to review the substance of an underlying security-clearance determination in the course of reviewing an adverse action. Therefore, based upon *Egan* and its progeny, a Court would not have the authority to review the revocation of a security clearance even if that revocation was based upon one's testimony in an EEO proceeding. Further, it is unclear what would happen if the USAO made a *Giglio* determination that a Federal law enforcement officer was impaired in testifying based upon her prior false testimony in an EEO proceeding. *See e.g., Trong Q. Nguyen v. Department of Homeland Security*, 737 F.3d 711 (Fed. Cir Dec. 9, 2013)(holding that a USAO's *Giglio* determination is analogous to a third-party agency revocation of a credential or qualification necessary to perform the employee's position). Thus, the absolute immunity provided by Title VII's anti-retaliation provision in the 4th, 5th and D.C. Circuits may not be so absolute.

THE PRESIDENT'S TASK FORCE ON 21ST CENTURY POLICING



WIFLE President Attends Meeting with Vice President Biden

Recently, WIFLE President Cathy Sanz joined fellow law enforcement representatives in a meeting at the White House with Vice President Joe Biden and other Administrative participants to discuss solutions for improving trust between law enforcement and the communities they serve. President Sanz also has been instrumental in evaluating strategies highlighted in the President's Task Force on 21st Century Policing Report.

[Read the White House Press Release here.](#)

WIFLE Annual Half Marathon

[Register and pay by mail with check](#)

Virtual Run, \$30, [Register Online](#)

Onsite Runs, [Register Online](#)

\$90-thru September 28

\$65-Groups of 3 or more runners thru May 15, 2016

\$75-Groups of 3 or more thru July 24, 2016

October 2, 2016 7:30 a.m.

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Fairfax Station, Virginia

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