



# Federal Employment Law Training Group

Teaching the Law of the Federal Workplace

FELTG Newsletter

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## The State of the Civil Service -- And More

Only a week ago, I was saying “Happy New Year” with regularity. Suddenly, and in the span of just a few days, it seems that 2023 is well under way.



Things certainly look different this year than they did last January. We'll kick off this month's newsletter with the annual State of the Civil Service article, including updates on MSPB, EEOC, FLRA, and OPM.

But that's not all. We'll also discuss topics, including:

- Clean record agreements and impacts on hiring practices
- Forgotten benefits of in-person training
- How certain days of the week are required for telework as a reasonable accommodation
- Federal workplace trends in 2023

We get many of our newsletter ideas from FELTG readers. If there's something you'd like us to write about in 2023, [email us](#) or [Ask FELTG](#).

We'd love to hear from you.

Take care,

Deborah J. Hopkins, FELTG President

### UPCOMING FELTG VIRTUAL TRAINING

The FELTG Virtual Training Institute provides live, interactive, instructor-led sessions on the most challenging and complex areas of Federal employment law, all accessible from where you work, whether at home, in the office or somewhere else.

Here are some of the upcoming virtual training sessions we'll be doing over the next several weeks. For the full schedule of virtual offerings, visit the [FELTG Virtual Training Institute](#).

#### **Calling All Counselors: Initial 32-Hour Plus EEO Refresher Training**

January 23-26

#### **Back on Board: Keeping Up With the New MSPB**

February 14

#### **Get it Right the First Time: Accepting, Dismissing, and Framing EEO Claims**

February 22-23

#### **Workplace Investigations Week**

February 27-March 3

#### **EEOC Law Week**

March 13-17

#### **Nondiscriminatory Hiring in the Federal Workplace: Advancing Diversity, Equity, Inclusion and Accessibility**

April 5

*FELTG is an SBA-Certified Woman Owned Small Business that is dedicated to improving the quality and efficiency of the federal government's accountability systems and promoting a diverse and inclusive civil service by providing high-quality and engaging training to the individuals who serve our country.*

***The State of the Civil Service:  
2023 Edition***

**By Deborah J. Hopkins**



Happy new year, FELTG Nation! The previous 12 months have included several milestones and significant changes in the Federal civil service. So, I'm once again using the month of January to share some highlights about exactly where things stand in the world of Federal employment law.

**MSPB**

I can't imagine a single FELTG reader doesn't know that after a 5+-year hiatus, we again have a fully functioning Merit Systems Protection Board. The Acting Chair is Cathy Harris (the Senate still has not confirmed her as Chair, but functionally she is still in charge). The two other members are Ray Limon and Tristan Leavitt.

In 2022, the Board members inherited a backlog of more than 3,600 cases. At latest count, somewhere around 700-800 decisions had been issued, 46 precedential and the rest non-precedential, while new Petitions for Review (PFRs) continue to be filed. So, the number of PFRs awaiting Board adjudication remains well above 3,000.

Two of the most significant new decisions include:

- *Singh v. USPS*, 2022 MSPB 15 (May 31, 2022), which clarified who is a comparator for the purposes of *Douglas* factor 6, and
- *Lee v. VA*, 2022 MSPB 11 (May 12, 2022), which clarified requirements for demonstrating unacceptable performance before a PIP (as explained in the March 2021 Federal Circuit decision *Santos v. NASA*).

The Board is once again able to conduct research. It has identified several topics on its 2022-2026 agenda, including *Aligning*

*Workplace Flexibilities with the Future of Work, Correcting Employee Performance and Conduct, and Understanding the Roles of Teams and Team Leaders*. We can't wait to see what they learn after a half-decade research hiatus.

For a case law update on the most consequential decisions over the past few months, join us Feb. 14 for [Back on Board: Keeping Up with the New MSPB](#). For a full class on all things Board-related, register for [MSPB Law Week](#), which will be held March 27 - 31.

**EEOC**

The Equal Employment Opportunity Commission, which has jurisdiction inside and outside the Federal sector, continues to promote President Biden's Diversity, Equity, Inclusion and Accessibility (DEIA) agenda. Areas of focus include raising awareness about the harassment, discrimination, and violence against transgender people, updates to COVID-19 issues, changes in [Reasonable Accommodations](#) in a post-COVID world, and much more.

To help promote the EEOC's mission, FELTG is hosting a 32-hour [EEO Counselor training](#) later this month and [EEOC Law Week](#) in March. And be sure to check out Dan Gephart's recent [interview](#) with EEOC Chief AJ Regina Stephens about the agency's priorities in 2023, her thoughts on EEOC-ordered training, and more.

**FLRA**

The Federal Labor Relations Authority has gone from a full complement of three members down to a quorum of two in 2023, as Chair Ernest Dubester's holdover term expired at the end of the last Congress. The new Chair is a familiar face to many, former MSPB Chair Susan Tsui Grundmann, who was confirmed to the FLRA several months back and joins previous Chair and now-member Colleen Duffy Kiko.

We still await confirmation of a General Counsel, a position that has been vacant for

several years. Charlotte Dye is currently in Acting General Counsel capacity, where she may remain for a maximum of 10 months, unless President Biden nominates, and the Senate confirms, a General Counsel before then. With the two current members from opposing philosophies on several areas of labor-management relations and a nominee for the third member yet to be made by the President, we'll all wait and see how the FLRA is impacted by this change in dynamics.

For a jump start on what you can expect, join former FLRA employee and current FELTG instructor Ann Boehm on Feb. 2 for the 60-minute [What Happens Now at the FLRA?](#)

A significant change within the agency occurred last summer when the FLRA and the Union of Authority Employees (the exclusive representative of the FLRA's bargaining-unit employees) [announced](#) they were re-establishing the FLRA's Labor-Management Forum.

There have also been some important cases altering FLRA precedent, and a recent decision allowing an agency to discipline a union official for exceeding the bounds of robust debate – a topic of discussion in the Jan. 19 training [Drawing the Line: Union Representation or Misconduct](#). Or join us for [FLRA Law Week](#) May 1-5, where the entire world of Federal Labor Relations will be discussed in depth. We can promise the 2023 class will be different than the 2022 version, as we keep up with the changes.

### **OPM Regs, Return to the Work Plans**

In December, the Office of Personnel Management issued new regulations on 5 CFR Parts 315, 432 and 752, as a result of Executive Order 14003. If you missed these important updates, check out our 60-minute [recording](#) of the significant takeaways.

Among other things, OPM's 2022 Federal Employee Viewpoint Survey (FEVS) focused on the current state of telework in agencies. After a largely abandoned attempt to return

employees to the physical workplace in 2021 – thanks to the Delta and Omicron COVID-19 variants – 2022 was the year that saw increases in office attendance around the country. A full 56 percent of the Federal workforce reported that they telework one or more days per week, and 36 percent of employees reported that they were required to be physically present at their worksite every single day.

There are varying philosophies about the need for in-person collaboration as balanced against the flexibility and productivity that full-time telework provides. Return to the physical workplace has been a key point of negotiation between agencies and unions – and we don't expect that to change any time soon. As a result, most FELTG's classes have incorporated strategies and best practices for managing employee issues in a hybrid work environment, whether it's harassment or employee PIPs, and everything else in between.

### **Closing Thoughts**

I believe 2023 is looking brighter, with a Federal budget approved through September, more people comfortable traveling and meeting in person, and no major national elections (is anyone else thrilled about this one?).

Stick with FELTG this year and we'll keep you posted on all the happenings. [Hopkins@FELTG.com](mailto:Hopkins@FELTG.com)

### **What Happens Now at the FLRA?**

Former FLRA Chair Ernest DuBester's holdover term came to an end, leaving the FLRA with just two members – new Chair Susan Tsui Grundmann and former Chair Colleen Duffy Kiko. And there is still no nominee for General Counsel, leaving the Acting GC on borrowed time. In the 60-minute webinar [What Happens Now at the FLRA?](#) on Feb. 2, Ann Boehm will share guidance on how to best navigate this situation. [Register](#) now.

***To Tell the Truth:  
Clean Record Agreements and Hiring  
By Barbara Haga***



Last month, I [wrote](#) about problems with clean record agreements (CRA) in the hiring process. While the OPM regulations now contain no bar to doing them, living up to their terms can present some huge problems. This month, let's look at the impact of CRAs on employees in their future job search.

The MSPB 2013 report [Clean Record Settlement Agreements and the Law](#) is an excellent resource if you want to delve into the fine points of these agreements. Pages 51 to 56 of that report deal with an employee's obligation to disclose information after the signing of a clean record agreement.

**Answering Tough Questions**

MSPB asked OPM what the employee's obligation is to disclose the actual nature of the action that was settled if they return to work for the Federal government or are in that process. You are probably familiar with the types of questions that appear on official forms.

The OF-306 asks in question 12, "During the last 5 years, have you been fired from any job for any reason, did you quit after being told that you would be fired, did you leave any job by mutual agreement because of specific problems, or were you debarred from Federal employment by the Office of Personnel Management or any other Federal agency?"

Question 13.A5 of the Questionnaire for Public Trust Positions (SF-85P) asks if in the last 7 years the individual has been fired, quit after being told he or she would be fired, left under mutual

agreement following allegations of misconduct or left following notice of unsatisfactory performance. Question 13.A6 asks about other less serious actions such as warnings, reprimands, suspensions, or other discipline. The SF-86, Questionnaire for National Security Positions includes the very same questions.

OPM's answer to the Board was "yes," the employee is obligated to disclose the truth. I wonder how many employees whose representatives are signing CRAs understand that. The report notes:

"Several of the appellant attorneys we spoke with indicated that the primary reason why appellants seek clean records is to aid them in their efforts to obtain another Federal position."

We might say these employees are going to go look for employment outside the Federal government. That might be true in some cases, but there will be many trying to return to Federal jobs.

Where has their experience been? Is that Federal experience translatable to a non-Federal job? How many jobs like management analyst and program analyst would be available at comparable pay rates to what Federal agencies pay for that work? And the pay and benefits are the biggest reasons those employees are likely to try to find another Federal job. For many types of work in many localities, working for the Federal government is the best deal in town.

When employees don't tell the truth on those forms, bad things happen. The examples that the Board describes in the report involve departures/settlement agreements from outside employers. Here are summaries of those:

A tax examining technician with the IRS provided inaccurate information on her OF-306 regarding her termination from two prior jobs. In response to the

question quoted earlier in the article, the examiner answered, “no,” even though she was terminated by her two previous employers. She was removed for providing false/misleading information on an official employment document. The Board upheld the action. *Ly v. Treasury*, 112 FMSR 165 MSPB (2012).

An assistant personnel officer was removed for a negative response on employment documents and security paperwork when responding to the questions listed. In this case, the officer argued he was not fired but “released by mutual agreement” due to a mismatch between his skills and the job he was holding. The AJ overturned the removal. The Board restored the removal, indicating that the charge of falsification was proven. *Forma v. Justice*, 93 FMSR 5139 MSPB (1993).

A former New York State Police employee was told he would be terminated due to bad judgment and his inability to react appropriately in stressful or complex situations. When hired as a Board Patrol agent (trainee), he responded negatively to the questions about resigning after being told he would be fired. OPM took a negative suitability action in this case. The employee was debarred for three years due to deception or fraud in the examination process. Again, the AJ did not uphold the action, but the Board restored the negative suitability determination, and the Federal Circuit affirmed without opinion on April 13, 1998. *Pappas v. OPM*, 97 FMSR 5368 MSPB (1997).

**Recent cases?**

I was able to locate one relatively recent initial decision that deals with a Federal

employee who failed to disclose he had been removed from a Federal position. This was a GS-15 supervisory human resources specialist. He had a CRA from one Army installation and then was rehired by another. *Torres v. Army*, AT-0752-16-0319-I-1/AT-0752-11-0876-C-1, (June 23, 2016).

**Back on Board:  
Keeping Up With the  
New MSPB**

This quarterly review of Board cases returns on Feb. 14 from 1-3 pm ET. FELTG President Deborah Hopkins will discuss the newest and most critical cases coming out of the MSPB and explain what those decisions mean for you and your agency.

The employee argued he had bargained for a CRA and was entitled to the benefit of it. The Army had a different answer and removed him based on making false statements. In this case, however, the Army decision was not sustained.

When provided the MSPB report and the information discussed above about employees having to answer truthfully, the AJ said OPM’s answer was not dispositive. The AJ overturned the Army’s removal.

I sincerely hope that the *Torres* case is in that pile of cases waiting for the new Board to issue a decision. [Haga@FELTG.com](mailto:Haga@FELTG.com)

**Ask FELTG: What Do OPM’s New Regs Say About Clean Record Agreements?**

OPM’s new regulations on 5 CFR parts 432 and 752, which went into effect Dec. 12, 2022, removed the 2020 regulations’ prohibition on clean record agreements. Agencies are once again free to use clean record settlements.

This was probably the most contested portion of the 2020 regulations, which had incorporated President Trump’s E.O. 13839 prohibitions on clean record settlements.

OPM explains that clean record agreements “should be an option for agencies to resolve informal and formal complaints when the agency deems it is in the best interests of effective and efficient management to achieve the agency’s mission,” and that

clean record agreements provide agencies with an important tool and flexibility, consistent with the policies of President Biden’s E.O. 14003, Protecting the Federal Workforce.

**ASK FELTG**

*Do you have a question about Federal employment law? Ask FELTG.*

OPM identified some of the disadvantages to prohibiting clean record agreements:

- Reduced likelihood of parties reaching a mutually agreeable resolution of informal or formal complaints
- Increase of costly litigation and arbitration
- Crowding of the dockets of third-party investigators, mediators, and adjudicators
- Cases languishing impact on the agency’s credibility, supervisor morale, and efficient execution of the agency’s mission

OPM’s rescission does not take a position on whether any particular case should be settled, as it acknowledges that settlements, which through lessening a penalty or permitting resignation, may in certain circumstances:

- Lessen the risk of outright reversal with its high costs without benefit, or
- May adversely affect governmental interests.

Agencies are still required to be truthful to Federal investigators in connection with background investigations and may not agree to withhold information about an individual’s departure from the agency. In addition, the requirement for agencies to be truthful applies also to suitability determinations and other inquiries related to vetting for personnel security.

The rescission of clean record restrictions applies to:

- 432.108 (performance-based actions)

- 752.104 (discipline for whistleblower retaliation)
- 752.203 (short suspensions)
- 752.407 (appealable actions)
- 752.607 (SES adverse actions)

If you missed our webinar [Implementing New OPM Regs for More Effective Disciplinary and Performance Actions](#), the recording is available in the [FELTG store](#). [Info@FELTG.com](mailto:Info@FELTG.com)

*The information presented here is for informational purposes only and not for the purpose of providing legal advice. Contacting FELTG in any way/format does not create the existence of an attorney-client relationship. If you need legal advice, you should contact an attorney.*

**Can’t Miss Webinars!**

FELTG’s 60-minute webinars provide, unique, helpful, engaging, and targeted training.

**February 2:** What Happens Now at the FLRA?

**March 2:** The New MSPB and Roller-Coaster Employees: Managing Up-and-Down Performance

**March 9:** Antisemitism and Other Religious Harassment in the Federal Workplace

**March 23:** Grappling With Employee Stress in the Workplace: Improve Performance and Morale in Your Agency

**April 6:** Dealing with Medical Issues in Misconduct Cases

**April 13:** Revisiting Existing Reasonable Accommodations

**May 4:** Make Your Best Case: Effectively Preparing Performance Narratives

**May 18:** Avoid the Pitfalls of EEO Reprisal

**June 1:** Do You Really Know the Douglas Factors?

***The Good News: You are the Hidden Benefit of In-Person Training***  
**By Ann Boehm**



In-person training all but disappeared during the pandemic. Thankfully, technology enabled us to adjust through virtual training. As in-person training has started creeping back and I've ventured back out on the

road, I've paid attention to the differences in virtual and in-person training.

The materials are the same. The instructors are the same. There is one major difference, though. The greatest benefit I observe during in-person training is how the participants learn from each other. You all, the participants, are the hidden benefit of in-person training.

Let's reflect a bit, shall we?

It's hard to believe how things have changed since the beginning of 2020. From January to mid-March, I taught FELTG courses in Sacramento, Calif.; Washington, D.C.; Fort Collins, Colo.; Raleigh, N.C.; Natchitoches, La.; Springfield, Ill.; and Phoenix, Ariz. I taught the occasional virtual webinar, but our typical training sessions were in person. And then the pandemic hit ....

Initially, agencies postponed classes "until the pandemic ended" – you know, for a few weeks. Yeah, that didn't happen. Weeks turned into months, months into years.

I'm sure you all, like me, remember hearing medical professionals opine that the pandemic and its associated isolation and masking requirements would continue at least until 2022. We did not think that could possibly happen. How would we survive?

Well, we did. We adapted. The world turned virtual. Workplaces changed. Training changed.

What didn't change was the need for FELTG training. Management still had to deal with unions, poor performers, misconduct, investigations, and EEO complaints. Virtual training worked. It still does.

Virtual training has the chat function. Participants can share anecdotes. They can ask questions. They can even un-mute and address the group. In my experience, however, the virtual world does not lend itself to the kind of sharing that occurs during in-person training.

Not only do participants learn from each other – sometimes things as basic as who to contact about a performance issue or reasonable accommodation request – but I often learn from the participants. People are more comfortable sharing in person than virtually. Even the hourly breaks (which may run longer than 10 minutes during in-person training because people enjoy chatting and connecting) provide an opportunity for brainstorming, questioning, and sharing.

More and more private sector CEOs are seeking to bring people back in the workplace to enhance idea sharing and collaboration. Workers are reluctant because they like the convenience of remote work.

Remote and hybrid work are beneficial, and they are here to stay. However, when it comes to training, agencies should give serious consideration to more in-person training. It really benefits the participants. During a recent virtual training, some participants commented, "Gee, it would be nice to have this training in person."

Don't get me wrong. There is great value to virtual training. How lucky we are that Zoom, Teams, and WebEx exist. But in-person training allows the participants to learn not just from the instructor, but from each other.

So, there you have it. Something to think about in 2023. *You* are the secret benefit of in-person training. It's an option again. And that's Good News! [Boehm@FELTG.com](mailto:Boehm@FELTG.com)

***In-Office Thursdays Only? Some Employees Really Do Need Specific Telework Days***  
**By Deborah Hopkins**

If your agency has an employee who, as a reasonable accommodation (RA), teleworks three days a week, and reports to the office one day a week, you might think the agency has the right to choose which day the employee reports to the office. And, depending on the scenario, you might be right. But you might not.

Each RA case requires an individualized analysis. Failure to follow the process could result in a finding against the agency – plus potential exacerbation of the employee's medical conditions.

In a recent EEOC decision, the complainant, who had fibromyalgia, fibromyoma, chronic pain, cancer in remission, and arthritis, received the below accommodations:

- A maxiflex work schedule;
- Three days of telework per week (Monday, Tuesday, and Wednesday);
- A requirement to report to the office on Thursdays; and
- Fridays off.

On Nov. 21, 2019, the complainant's supervisor met with her and with the Reasonable Accommodation Coordinator (RAC) about revising the existing RA to:

- A compressed work schedule (10-hour days Monday - Thursday);
- Three days of telework per week (Monday, Tuesday, and Thursday);
- A requirement to report to the office on Wednesdays; and
- Fridays off.

The complainant objected, explaining the change in schedule was not compatible with her medical limitations. The RAC sought additional medical documentation to support

the complainant's claim that a Thursday "in-office" day was part of her medical treatment plan.

According to the case, "The RAC's questions included: 'Is [Complainant] capable of reporting to the office on Wednesdays? If not, provide the specific medical need (with an explanation) that does not allow her to report to the office on this day.'"

The complainant's physician responded on Dec. 5, 2019, informing the agency the complainant's medical treatment plan included telework three days a week with Thursday, specifically, as her weekly "in-office" day:

The letter explained why a Thursday "in-office" day benefitted complainant in terms of managing the symptoms of her disabilities and explained how a change to her "in-office day would negatively impact her medi[c]al treatment plan." The RAC deemed the reference to a medical treatment plan to be too vague, so around Dec. 26, 2019, the RAC sent the complainant's physician another information request to include a "specific medical reason/need (i.e. include the specific type of medical treatment in your medical plan) that prevents [Complainant] from reporting to the office on Wednesdays."

On Jan. 20, 2020, the complainant's physician again responded, informing the agency the treatment plan included medication, therapy, and mandatory extended continuous periods of rest on Fridays, Saturdays, and Sundays, in order to mitigate the complainant's symptoms.

The documentation further stated the change to Wednesdays "is not advisable" and "would be detrimental to [Complainant's] treatment and health" because if the schedule changed the complainant would:

- Experience medical challenges managing the symptom[s] and side effects of her medication;



- Not [be] able to have the extended period of rest without missing work;
- Encounter negative impacts managing her pain;
- Experience intensification in her sleep disturbance, fatigue; and
- See increases in additional side effects from her medication.

The RAC still deemed the physician's response insufficient, so she again sent the Dec. 26 request for information about the specific type of treatment that would prevent the complainant from reporting on Wednesdays; neither the physician nor the complainant provided further documentation.

On Mar. 9, 2020, the complainant received a notice from her supervisor, informing her that her existing RA had been modified and that her in-office day would be Wednesdays beginning Mar. 16. The complainant requested the agency reconsider but was denied, so she appealed to the EEOC.

On appeal, the EEOC found that the Dec. 5, 2019, response from the physician "was sufficient to support Complainant maintaining Thursday as her 'in office' day" because the physician provided specific rationale, stating the existing treatment plan "has decreased the severity of [Complainant's] symptoms, stabilized her condition and delayed progression of her medical condition," and warned that a change in schedule would be "detrimental to her condition, mobility and treatment."

The Commission also disagreed with the supervisor and RAC's assessment that the medical documentation supported that the complainant could change her "in-office" day to Wednesday.

While the agency is permitted to ultimately choose an employee's accommodation, the RA must be effective.

In this case, the Commission said that management's insistence on moving the in-

office day to Wednesday, which resulted in the complainant having to work the next day rather than rest, rendered her reasonable accommodation "far less effective." In addition, when the supervisor and RAC changed the complainant's work schedule from maxiflex to compressed, it became impossible for the complainant to "adjust her lunch break to use it in conjunction with her leave for medical appointments or adjust her start or end time to accommodate medical appointments," which also rendered the accommodation less effective.

The Commission closed by stating, "By modifying Complainant's long-held accommodations to make them less effective, we conclude the Agency violated its accommodation duties under the Rehabilitation Act." *Cheryl L. v. Treasury*, EEOC Appeal No. 2021001710 (Sept. 26, 2022).

For more on this topic, join FELTG on Feb. 16 for the two-hour virtual training [Reasonable Accommodation: Meeting Post-pandemic Challenges in Your Agency](#). [Hopkins@FELTG.com](mailto:Hopkins@FELTG.com)

### **Antisemitism and Other Religious Harassment in the Federal Workplace**

Recent remarks by celebrities, athletes, and news networks have made seem as if antisemitism is growing in the country. Recent surveys show that perception is real.

The 60-minute webinar [Antisemitism and Other Religious Harassment in the Federal Workplace](#), held on March 9, will explain the Title VII protections that make it illegal to discriminate against someone based on, among other things, religion and national origin.

Attendees will learn how to recognize incidents of religious harassment, particularly those aimed at Jewish employees, and promptly correct the harassing behavior. [Register](#) now.

## **Workplace Trends 2023: The Path to a Happy and Productive Workplace**

By Dan Gephart



Meet the new year. Same as the old year.

After scouring numerous reports, studies, blogs, and magazine articles by “workplace experts,” the top three challenges and trends that will most likely

impact Federal workplaces this new year look very similar to the challenges and trends [we discussed this time last year](#):

- Telework, remote work, and other flexibilities
- Employees’ mental well-being
- DEIA initiatives

**Telework, remote work, and other flexibilities.** For years, good government groups would put out report after report touting the benefits of telework for the Federal workplace. And year after year, those reports would go ignored, only to be brought up during the occasional [Snowmageddon](#).

But after two-plus years of pandemic-enforced remote work, the argument that telework won’t work doesn’t hold water. It did work. In fact, it worked quite well in many cases.

Meanwhile, many employees are not so eager to return daily to an official physical location. Why should they? Remote work allows for better work-life balance for employees, and the lack of a commute saves money and time.

The benefits of telework, remote work, and other flexibilities can no longer go ignored, especially in an employee market. Nearly 60 percent of the employed respondents in McKinsey’s American Opportunity Survey say they work at least part of the time remotely. Ninety-two percent of millennials

say flexible working is a top priority when job hunting and 70 percent of all employees say flexible work options make a job more attractive, according to a survey by software company Sage. Meanwhile, 87 percent of employers offered at least some flexible work options. If you’re not one of those employers, good luck keeping and finding talent.

For the FELTG Nation, this trend presents two specific challenges, both of which we’ll be focusing on in upcoming training:

1. Addressing an increase in the number of reasonable accommodation requests for telework. Join us next month (Feb. 16, to be exact) for [Reasonable Accommodation: Meeting Post-pandemic Challenges in Your Agency](#).
2. Ensuring accountability of employees who work remotely. [UnCivil Servant](#), held next on Feb. 8-9, offers step-by-step guidance on addressing accountability for performance and conduct, regardless of where the employee is working. (Also, a recording of the recent webinar [Handling Teleworker Performance and Conduct Challenges](#) is available on the FELTG website.)

**Employees’ mental well-being.** The [Indeed and Glassdoor Hiring and Workplace Trends 2023 Report](#) noted that: “Employees are demanding greater wellbeing in their experience at work, including increased levels of happiness, satisfaction, purpose, and manageable stress.”

[Forbes Magazine](#) also listed “Mental well-being gains importance” among its 2023 workplace trends. It’s easy to see why. The magazine shared a survey by employee well-being website Gympass that found nearly half of all employees reported a decline in mental well-being over the last year.

[Shana Palmieri, LCSW](#) shared other alarming statistics in last month's [FELTG Newsletter](#):

“Prevalence rates of anxiety and depression rose 50 percent and 44 percent, respectively, according to an article in [Translational Behavioral Medicine](#). This rate was six times higher than in the pre-pandemic year of 2019. The most significant impact was found for those aged 18 to 29, with rates of anxiety and depression jumping to 65 percent and 61 percent, respectively.”

Shana will present [Grappling With Employee Stress in the Workplace: Improve Performance and Morale at Your Agency](#) on March 23.

**DEIA initiatives.** If you're looking at DEIA initiatives as solely a top-down initiative from the current Administration, you're looking at it wrong. The younger workforce is demanding employers' focus on DEIA. Look at these statistics from the Indeed-Glassdoor report that reflect the views of workers aged 18-34:

- 72 percent would consider turning down a job offer or leaving an employer if they did not think that their manager (or potential manager) supported DEI initiatives.
- 67 percent would consider turning down a job offer or leaving a job if there was a gender imbalance in organizational leadership.
- 65 percent would consider turning down a job offer or leaving a job if there was a lack of race/ethnicity diversity in organizational leadership.

But it's not just young people: 74 percent of all surveyed US workers say that corporate investment in diversity, equity, and inclusion is “very important” or “somewhat important” to them when considering a new job.

As last year progressed, we at FELTG noticed a growing interest in Barrier Analysis

training. That's a good sign that agencies are focusing on the root of diversity imbalance and not just on filling out an MD-715 form.

In our [DEIA training](#), we've discussed the importance of psychological safety when it comes to inclusion. Psychological safety, as defined by [J. Bruce Stewart](#), is the “ability of a person to feel safe in speaking up at work or in the community, especially if that person has a different perspective or viewpoint.” Psychological safety is not just a key inclusion factor, it is being used in many studies as a measure of employee well-being in the workplace.

In fact, there is a lot of overlap in the ways to address these three trends. Paying attention to all three will make your agency a happier and more productive workplace in 2023. And FELTG will be there to help you achieve those goals. [Gephart@FELTG.com](mailto:Gephart@FELTG.com)

### **The Federal Supervisor's Workshop: Building the Best Toolkit for Managing Today's Workforce**

This comprehensive Federal supervisory training event returns with seven specific sessions that will give you the tools and skills to effectively and efficiently manage in the Federal workplace circa 2023. This year's 60-minute sessions are:

**March 7:** Why Supervisors Need to Use the Douglas Factors

**April 4:** Keys to Implementing and Managing a Successful Performance Opportunity Period

**May 2:** They Just Won't Show Up: Handling Excessive Absence

**June 6:** Ensuring Accountability with Hybrid and Teleworking Employees

**July 11:** Trends in Hostile Work Environment Harassment: 2023 Edition

**August 8:** Providing Reasonable Accommodation for Invisible Disabilities

**August 22:** What Supervisors Should Know About Official Time