**Archbright™**

**Insights Newsletter**

**January 2019**

**How Valuable Are Soft Skills in Your Organization?**

In a recent LinkedIn survey, 92% of executives said soft skills are more important than technical skills.\* In fact, the top 3 skills that managers and executives want to cultivate in employees are leadership, communication, and collaboration.

Archbright University can help.

The following courses are now available on our 2019 calendar and can also be brought onsite to your organization:

* Building Interpersonal Awareness with DiSC®. Discover your unique behaviors and the behaviors of those you work with and learn strategies to reduce tension and increase your effectiveness.
* Conflict to Collaboration. Examines behavior, word choice, and mindset, outlines the steps for effective collaboration, and presents tools for managing conflict effectively.
* Crucial Conversations®. Achieve spirited dialogue at all levels in your organization and learn a set of tools that builds alignment, agreement, and interpersonal communication.

If you haven’t brought a class onsite before, it provides a collective perspective that builds momentum and helps infuse the teachings into your company’s culture. And when our trainers come to your location, there is less impact to your team’s productivity due to travel time. We will schedule around your company’s needs.

If you’d like more information about public classes or onsite trainings, please reach out to your Archbright Account Executive or contact us at info@archbright.com, 206.329.1120 or 509.381.1635.

\* LinkedIn’s Top 2018 Workplace Learning Trends Report

**2019 is here!**

2019 is here! Can you believe it? I hardly can, but it is here and looks to be a year of prosper for some and tough times for others. Before I get into that, let me THANK the almost 2,000 Archbright members who together make the services we offer possible. Our mission is to tackle the complexity

of the workplace, so you can focus on the passion of your business. In that spirit, if there is anything I/we can do to support you further, please do not hesitate to reach out to me!

Now…on to 2019.

According to ITR Economics, we are facing at least two quarters (maybe more) of an economic slowdown this year. Specifically in Manufacturing, Capital Goods, and Residential Construction industries. At the same time, wages are

rising and the talent market remains fiercely competitive for employers.

“Although we expect macroeconomic growth to be weaker in 2019 than 2018, we are not anticipating a recession severe enough to drive down employment. The pace of rise will slow, but further rise in employment is likely. Businesses should plan for the labor market to remain tight [in 2019].” ITR Insider

In fact, now we have to contend with “ghosting.” The Washington Post recently explained that ghosting is when “Applicants blow off interviews. New hires turn into no- shows. Workers leave one evening and never return.” And in my recent conversations with many of our members, I found…this is a real thing! So we must remain as focused as ever on managing our cultures to inspire acquisition and retention of the right people, in the right seats!

But it’s not all bad news. ITR also reports that Washington State is among the top 10 states in the country for future growth. True, we are #10, but we made the list. Idaho ranked #14 and Oregon ranked #23.

Keep steady through 2019, because 2020 promises to be a stronger year!

**CoffeeTalk: Marijuana and Other Drugs in the Workplace**

It is becoming increasingly important for employers to understand and keep pace with evolving changes in State law governing the use of marijuana. Marijuana remains illegal under federal law, however, and strictly speaking, federal law preempts state law. In this climate, employers in Washington, where legal marijuana use has been expanded, need to be aware of the interplay among marijuana and employment laws and make some tough policy calls, proactively.

In this CoffeeTalk, Archbright attorneys will cover federal and state laws governing marijuana possession and use, workplace issues raised by

the legalization of marijuana, testing methods, and employer policy considerations.

Two Options to Attend

Bellevue | Presenter: Ami De Celle

When: February 6th | 9:00 am to 10:30 am (8:30 Check-in Begins; 9:00 am Program)

Where: Bellevue College LMC Event Center 3000 Landerholm Circle SE | Bellevue, WA

Cost: FREE | a continental breakfast will be served

Spokane | Presenter: Erin Jacobson

When: March 13th | 9:00 am to 10:30 am (8:30 Check-in Begins; 9:00 am Program)

Where: Mirabeau Hotel – Juniper Room 1100 North Sullivan Road | Spokane, WA

Cost: FREE | a continental breakfast will be served

**Have You Noticed the Low Unemployment Rate?**

The selection of the right person for a job is one of the most important decisions a company or supervisor makes. And in today’s job market, companies must act quickly.

Hiring Winners helps HR staff and hiring managers create a solid interview plan to select the best person for the job, answer tough questions about your organization, and make your organization a candidate magnet! January 29 and March 1 in Seattle. March 6 in Spokane.

Bring any Archbright University class to your location! Save travel time and expenses, and have our instructors come to you. Our most popular onsites include Supervisory Skills, Leadworker Effectiveness, Workplace Harassment Awareness, and First Aid/CPR/AED Training.

Do you have a special training need? We can customize almost any of our courses or even build you a brand-new course based on your organization’s needs. Contact your Account

Executive or call us (206.329.1120 or 509.381.1635) for more information.

**Washington Paid Sick Leave and Attendance Lessons Learned in Year One**

Just over one year ago, Washington’s paid sick leave law became effective, requiring most employers in Washington to provide non-exempt employees at least one hour of paid sick leave for every 40 hours worked. For some employers the paid sick leave requirement didn’t necessarily change the amount of leave provided to employees – but several details and nuances of this law have presented new challenges for almost all employers.

As we look back at the first year of the state-wide sick leave law, the most common challenges and lessons learned include managing attendance without violating the law.

Attendance policies, including “point systems,” have become especially challenging under the new law. Employees using paid sick leave for authorized reasons may not be penalized for exercising their lawful right to use their accrued sick leave – meaning those absences cannot be counted as “points” under most attendance policies. Tardiness for sick leave reasons may also be protected under the sick leave law, if sick leave is used to cover the late arrival. Once accrued sick leave is exhausted, however, attendance policies may generally be enforced – provided no other protections apply, such as under FMLA or ADA.

Verification may be requested for absences of more than three consecutive days, whether full or partial day absences. This means, for example, an employee who misses 30 minutes of each consecutive day, attributed to authorized sick leave reasons, may be asked for verification if they again are sick for any portion of the fourth consecutive day.

Holiday policies requiring employees to work the day before and the day after the holiday in order to be eligible for holiday pay now also present challenges. While this statement is acceptable to have in employer policies, if accrued sick leave is available, the employee must be able to use it for sick leave reasons. Guidance from Washington Labor & Industries states that withholding holiday pay in this situation is viewed as retaliation for the employee’s lawful right to use accrued sick leave. Employers may enforce the policy if the absence is due to a non- sick related reason.

Attendance bonuses or “wellness” incentives have also become problematic under the sick leave law. Incentives providing a bonus for perfect attendance would violate the law unless all protected absences, including absences or tardiness where paid sick leave was used, are not counted as absences.

It is important for employers to create effective attendance and discipline policies that consider these new (and some old) protections. This law doesn’t mean that attendance policies are futile. Attendance policies, including no-fault point systems, can still be effective – and in fact, more effective – provided protected leaves are taken into consideration before discipline is given.

Archbright has KeyNotes and compliant policies posted on the HR Toolkit for eligible members. Gold, Silver, and Bronze members are encouraged to contact an Archbright HR Advisor for assistance in ensuring policies and practices comply with applicable laws.

Source: Joy Sturgis, Senior HR Advisor

**HR FAQ**

**Question:** The applicant did not indicate any convictions on their application, but when their background check came in, it showed a pending conviction. Can I use a pending criminal charge to exclude an applicant from employment?

**Answer:** An arrest record or pending conviction is different from a conviction. Employers should use extreme caution when considering arrest records. Because an arrest record is no proof of unlawful conduct, an arrest record standing alone may not be used to deny an employment opportunity. Employers should examine the conduct underlying the arrest in making any employment decision.

In evaluating conviction information, employers should conduct an individualized assessment and rely on the three-factor test included in the EEOC’s guidance: 1) the nature and gravity of the offense or conduct; 2) the time that has passed since the offense and/or completion of the sentence; and 3) the nature of the job held or sought.

Employers must also be mindful that certain state laws, including those in Washington and Oregon, prohibit employers from obtaining information about an applicant’s arrest or conviction record until after the employer has determined the applicant is otherwise qualified for the position. There should be no inquiry made on arrest records on an employment application.

**Minimum Wage Increase and Paid Family & Medical Leave Deductions Begin for Washington Employees**

***Reminder:*** Washington’s minimum wage rate increased to $12.00 per hour beginning January 1, 2019. This increase is part of a series of scheduled increases put in place by 2016 voter-approved Initiative 1433, which provides for the minimum wage to increase annually to $12 in 2019 and $13.50 in 2020. Starting January 2021, the minimum wage will be calculated by the Department based on inflation.

Also effective January 1, 2019, nearly all Washington employers must begin collecting the employee portion of Paid Family and Medical Leave premiums. Employers with fewer than 50 employees are not required to pay the employer portion of the premium but must still remit the employee portion of the assessment. Premiums will be collected by the state after the close of the first quarter, in April 2019. A comprehensive KeyNote and sample employee deduction memo is available to eligible Archbright members on the HR Toolkit or by calling

**Tips for Creating a Holistic Benefits Plan That Will Attract Top Talent**

With unemployment at historic lows, employers need to separate themselves from their competition to attract and retain the best of the best in new hires. One way employees can master this endeavor is to offer a strong total compensation package, of which benefits are a major component. Today’s younger potential employees are razor-focused on their physical and emotional well-being, so offering holistic benefits is a surefire way to secure the brightest new hires. Designing a plan that will appeal to the entire workforce is an added bonus.

Employee benefits administration company, Clarity Benefit Solutions, offers the following tips for creating a holistic benefits plan to attract top talent in the new year:

1. Identify and analyze those benefits potential employees may desire the most. A top priority should be retirement planning—no matter what the age of the employee. Help employees maximize their retirement savings via 401(k)s, profit sharing, or Roth 401(k)s. Make sure to provide opportunities for employees to meet with financial advisors to explore all investment as well as retirement portfolio management options.
2. Services that assist employees with achieving long-term financial success are paramount. Credit
3. counseling, debt consolidation, and financial coaching can ensure long-term financial prosperity and result in employee satisfaction.
4. Consider that college loan debt is a serious concern of potential employees. These loans can be large, and often require payments in the hundreds of dollars
5. per month for many years. However, employers that offer refinancing programs provide employees with the opportunity to refinance their loans or consolidate their high-interest rate loans at a lower interest rate. Some employers may opt to assist employees by making monthly, quarterly, or annual contributions to their loans.
6. Tele-medicine options are also appealing to potential employees to maintain an optimal lifestyle. These virtual doctor consultations allow direct access to a physician day or night via phone, text, email, or video.
7. Nutrition and wellness services round out a holistic benefits plan. Onsite nutritionists can help employees embrace healthy eating habits and gym memberships can encourage employees to embrace a healthy lifestyle.

Source: Clarity Benefit Solutions/CCH

**Introducing Our New Attorney**

We are thrilled to announce Colleen Mayer has joined our legal team. As a Staff Attorney for Archbright, she provides legal advice and counsel to members on all aspects of local, state, and federal employment and labor law. Colleen has been representing employers in employment litigation and administrative proceedings, and providing advice since 2011. Prior to joining Archbright, she was an attorney at a Seattle law firm, where she represented employers in state and federal litigation and administrative proceedings, provided counsel on discrimination, harassment, wage

and hour, employee leaves, employment and separation agreements, employee handbooks, and policies. She is also an experienced speaker who has presented on several employment topics at seminars, including some run by the National Business Institute. Colleen earned her B.S.B.A. from Georgetown University and her J.D. from the University of Virginia. She is licensed to practice in Washington and Connecticut.

Please join us in welcoming Colleen!

**Did You Know?**

Archbright Silver members receive 15 hours of legal advice each year and Gold members receive unlimited legal support. This includes timely and expert advice to questions involving all types of employment law issues including: hiring and firing, discipline, leave administration, wage and hour, discrimination and harassment, non-compete agreements, confidentiality, no solicitation and severance agreements, reductions in force, exempt or non-exempt job classifications, independent contractor status, and more.

**OSHA 300 Recordkeeping**

A vast majority of companies know that if you have 10 or more employees, you are required to keep a record of serious work-related injuries and illnesses. The information that is recorded is kept on the OSHA 300 Log. Companies are not required to record minor, first-aid only injuries. The employer has seven days after an injury to record the case. Employers are required to have a running log for each establishment each year, required to post a summary of their previous year’s log in the workplace from February to April, and maintain 5 years of previous logs. Also, if requested, copies of the records must be provided to current and former employees, or their respective representatives.

The information provided on these reports helps OSHA, employers, and employees effectively evaluate the safety of a workplace, understand the hazards of a particular industry, and help the implementation of furthering the protection of workers across the country and state. This can also help prevent future workplace injuries and illnesses.

So how does OSHA specifically define a recordable injury or illness?

• Work-related fatality must be reported within eight hours and any amputation, loss of an eye, or hospitalization of a worker within 24 hours.

• Work-related injury or illness that results in loss of consciousness, days away from work, restricted work, or transfer or another job.

• Work-related injury or illness requiring medical treatment beyond first-aid.

• Work-related diagnosed case of cancer, chronic irreversible diseases, fractured or cracked bones or teeth, and/or punctured ear drums.

• Special recording criteria for work-related cases involving – needlesticks and sharp injuries, medical removal, hearing loss, and tuberculosis.

There has been confusion recently as to what is required to be filed electronically. On July 30, 2018 OSHA issued a Notice of Proposed Rulemaking (NPRM) to eliminate the requirement to electronically submit information from the OSHA Form 300 (Log of Work-Related Injuries and Illnesses), and OSHA Form 301 (Injury and Illness Incident Report) for establishments with 250 or more employees that are currently required to maintain injury and illness records. These establishments would be required to electronically submit information only from OSHA Form 300A (log summary). In addition, OSHA is proposing to require covered employers to submit their Employer ID number electronically along with their injury and illness data submission.

Currently, the Federal Electronic submission rule does not apply to Washington State employers. Archbright will continue to monitor both State and Federal regulations. For employers with locations outside of Washington, they will need to continue with current Federal regulations.

In addition, in the 2017 OSHA 300 Recordkeeping rules update, anti- retaliation protections for employees were put into place. The addition of this rule prohibits employers from discouraging workers from reporting an injury or illness and requires employers to inform employees of their right to report work-related injuries and illnesses free from retaliation.

This addition can be satisfied by posting the already required OSHA workplace poster. It also clarifies the existing implicit requirement that employer’s procedure for reporting work-related injuries and illnesses must be reasonable and not deter or discourage employees from reporting; and incorporates the existing statutory probation of retaliation for employees for reporting injuries. This means that many employer’s policies on how quickly an employee reports an injury to the employer, incentive programs, and post-accident drug testing policies could be out of compliance.

**Please Notify Us of Staff Changes.** Please take a moment to contact us to correct any staffing changes for your organization, including email addresses. Email us at info@archbright.com.

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We welcome your comments and suggestions.

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