**Archbright™**

**Insights Newsletter**

**November 2016**

**Announcing Our New Approach to Archbright Membership**

At Archbright, we understand that companies come in all sizes, across all industries, and as a result, need varying levels of HR support. To help our members remain compliant and build employee engagement requires more than a “one-size-fits-all” approach.

**We are pleased to announce that we are changing how we do membership at Archbright.**

Effective January 1, 2017, there are 3 different levels of membership for you to choose from—options that will help you more closely align Archbright’s core services with your company’s unique needs.

* Our **Bronze** membership level provides access to key resources to help support your company’s HR function: **the HR Hotline, Archbright Publications and eAlerts, the HR Snapshot, our Survey Reports for those who participate, and more.**
* The **Silver** membership level includes all items at the Bronze level, as well as these key compliance resources: **the Online HR Toolkit, a Handbook Review, On-Call Safety Advice, 15 hours per year of Legal Advice, and other benefits.**
* The **Gold** membership level includes all of the above, plus additional services to keep your company at the leading edge of both compliance and employee engagement: **12 half-day classes at Archbright University, 4 job market pricings, unlimited legal advice, 20 hours per year of labor negotiations, and more.**

For more details, please visit the **Membership 2017** page on Archbright.com. In the coming weeks, we will ask you to choose your company’s membership level to complete your annual renewal.

If you have any questions about the new membership levels or how you can determine which one is best for your organization, please contact your Account Executive at 206.329.1120 or 509.381.1635.

Thank you for your continued membership!

**EEO-1 Report Modified to Include Employee Pay Data in 2018**

The U.S. Equal Employment Opportunity Commission (EEOC) recently issued revisions mandating that employers with 100 employees or more submit EEO-1 reports that include W-2 pay and hours worked data, effective 2018. The first modified reports, representing 2017 data, will be filed March 31, 2018. Going forward, March 31 will be the annual filing date for EEO-1 reporting.

This change comes as part of a concerted effort by the EEOC and the Office of Federal Contract Compliance Programs (OFCCP) to identify pay disparities and address wage gaps for women and minorities. Armed with comprehensive pay data, the EEOC and OFCCP will actively investigate pay practices and target employers whose data reflect systemic pay disparities.

Proactive employers seeking to mitigate risk may wish to conduct statistical pay audits now to assess current exposure. Before doing so, contact an Archbright attorney. Archbright’s legal team can work with you to limit the likelihood that any internal findings will be discoverable in a future dispute with the EEOC.

**Source:** Amy Jungwirth, Staff Counsel at Archbright

**Survey Uncovers Significant Findings in HR Trends**

In its third year, Lockton’s 2016 Human Resources Trends: A Spotlight on Absence Management survey highlights the many challenges—and opportunities—facing employers across the United States. Survey results represent more than 265,000 employees across a wide variety of industries. A few of the most significant findings from the survey include:

* While 90 percent of employers offer some type of paid sick time—either through a standalone benefit or paid time off (PTO) program—the benefit doesn’t always extend to part-time workers. A number of companies surveyed don’t provide paid sick leave to part-time employees. Hence, the number of paid sick leave laws at the state, city, and county levels continues to grow rapidly.
* On a more positive note, occasional telecommuting is now offered by 60 percent of employers—up 12 percent from last year. An added bonus: the popular work “perk” isn’t limited to companies of a certain size or industry. Every industry included in the survey reported employees working outside of the office from time to time, including 71 percent of healthcare employers, 65 percent of manufacturing companies, and 58 percent of transportation employers. Forty-four percent of small employers (fewer than 100 employees) allow occasional telecommuting, compared to 70 percent of large employers (5,000+ employees).
* More and more employees are also able to take paid time off or vacation time—without waiting months and months. The average waiting period continues to decrease as more employers offer immediate accrual of those benefits.
* Currently, 21 percent of employers participating in the survey offer different PTO benefits for exempt and non- exempt employees. With new overtime rules from the Department of Labor (DOL), employers that offer separate PTO benefits to exempt and non-exempt employees will need to take a closer look at how those benefits are structured—and what the impending changes will mean for employees.
* Finally, while paid parental leave programs have dominated the headlines this past year, only 24 percent of employers surveyed offer some form of the highly-coveted benefit, and only 13 percent of those companies provide paid leave for secondary caregivers.

**Source:** Lockton / CCH

**Sample Notice for Employers Offering Wellness Programs Now Available**

On June 16, the EEOC posted on its website a sample notice that will help employers who have wellness programs comply with their obligations under a recently issued Americans with Disabilities Act (ADA) rule. The rule itself says that employer wellness programs that ask employees about their medical conditions or that ask employees to take medical examinations (such as tests to detect high blood pressure, high cholesterol, or diabetes) must ensure that these programs are reasonably designed to promote health and prevent disease, that they are voluntary, and that employee medical information is kept confidential.

**Sample notice, Q&A.** The EEOC indicated in the preamble to its ADA rule that the sample notice would be posted on the EEOC’s website within 30 days of the rule’s publication on May 17, 2016.

The notice is available at https://www.eeoc.gov/laws/regulations/ada-wellness-notice.cfm, and a brief question- and-answer document describing the notice requirement and how to use the sample notice is available at https://www.eeoc.gov/laws/regulations/qanda-ada-wellness-notice.cfm.

Limited financial and other incentives are permitted as part of voluntary wellness programs under the rule. However, employers may not require employees to participate in a wellness program; may not deny or limit their health coverage for non-participation; may not retaliate against or interfere with any employee who does not want to participate; and may not coerce, threaten, intimidate, or harass anyone into participating.

Employees also must receive a notice describing what information will be collected as part of the wellness program, who will receive it, how it will be used, and how it will be kept confidential. If the wellness program provides the notice, the employer must still ensure that their employees receive it.

Permissible incentives under the rule are calculated based on a percentage of the cost of self-only health insurance coverage. The obligation to provide the notice goes into effect on the first day of the plan year that begins on or after January 1, 2017, for the plan that an employer uses to calculate the incentive limit.

**Source:** CCH

**Current Form I-9 valid until Jan. 21, 2017**

On August 25, the Office of Management and Budget (OMB) approved a revised Form I-9. The revised form will be published by Nov. 22, 2016. Employers may continue using the current version of Form I-9 with a revision date of 03/08/2013 N until January 21, 2017. After January 21, 2017, all previous versions of Form I-9 will be invalid.

**Source:** CCH

**HR FAQ**

**Question:** We only hire new employees through a temp-to-hire service. We use the same outside staffing agency for all new hires. It is an easier way to assess work habits and skills without putting new hires on our payroll for the first 90 days. Recently, a temp hurt her back over the weekend pruning her trees and will be out for three weeks recovering. We just want the staffing agency to send us another temp and not have her return. The agency says we have to take the temp back once she recovers. Is that true?

**Answer:** Yes, it is true. Any employer with more than 15 employees is covered by the Americans With Disabilities Act (ADA), which stipulates a worker with a disability (including temporary disabilities) cannot be denied work if they can perform the essential duties of the job with or without a reasonable accommodation. The reasonable accommodation sought in this case is a 3-week leave of absence. Since the job can be easily filled by another temp during the absence, the employer cannot claim that providing the accommodation is “unreasonable or creates an undue hardship.” Therefore, the employer cannot refuse her return-to-work after a 3-week absence.

You may argue that you are not the employer because the staffing agency is the employer. However, under the doctrine of joint employer liability, she has two employers: the staffing agency and your organization. The National Labor Relations Board (NLRB) has established joint employer liability when the joint employer exercises direct control over an employee’s activities or merely has the ability to control working conditions (such as between a franchisor and franchisee). Other federal agencies like the Equal Employment Opportunity Commission (EEOC) and the Department of Labor (DOL) deem a user employer and a staffing agency joint employers. In this case, both employers are subject to the law on an equal basis. Your temp cannot be completely replaced by another because she is considered your employee under the joint employer doctrine and she has protection under the ADA.

**Learn proven methods to keep your projects focused and on task.**

In Fundamentals of Project Management, you will learn to

* Define project goals and deliverables
* Increase buy-in with sponsor and stakeholder interviews
* Improve on-time completion with a scope statement
* Create a project charter to document agreements
* Organize and estimate project tasks to increase efficiency
* Monitor implementation to keep projects on track

**Upcoming Dates:**

Seattle | November 14 | 8:30-4:30

Kent | November 29 | 8:30-4:30

Seattle | December 7 | 8:30-4:30

Kent | December 21 | 8:30-4:30

Anytime at your location!

**Encouraging Evolution**

“Microsoft is always 2 years away from failure.” --Bill Gates

Imagine where your organization would be if it was conducting business exactly the same way it did two years ago. If you had not yet failed, you would soon. New competition, improved technology, updated regulations, and customers’ ever-changing expectations demand that all organizations continually update their products, services, and internal processes.

All this change can create quite a strain on an organization. The “stubborn, change-resistant employee” is always a hot topic in Archbright’s supervisory classes. What can leaders do to encourage evolution?

**3 Evolution Blockers:**

1. **The need to change is not clear.** A few months ago, we at Archbright implemented a new version of our employee time tracking software. I never made the change and was asked, just this morning, why I was still using the old version.

I replied, “I didn’t see the purpose in learning the new system when the old one was adequate.” I wasn’t trying to be snide; I just didn’t understand the need to change.

1. **Change comes from above.** According to leadership expert Peter Senge, “People don’t resist change; they resist being changed.” The best way to get people to dig in their heels against your latest change initiative is to tell them they have to do it.
2. **We all get stuck in ruts.** We have our habits, and it’s simply the path of least resistance to continue them.

**3 Evolution Encouragers:**

1. **Passionately highlight the need for change.** Paint a picture of what will be better when the change is implemented. Will safety improve? Will customer wait times be decreased? Will errors be eliminated?
2. **Involve everyone in the process.** Once the need for change is understood, get input from all stakeholders on easing the transition.
3. **Provide opportunities to change “brain tracks.”** Stuck software engineers play ping pong to stimulate new thinking. I take walks around the perimeter of the building as mini brain-breaks. One Archbright member has a Friday afternoon band to give employees a time to express their creativity. Give accountants a physical challenge, give production workers a word game, give everyone an opportunity in a low-risk situation to try something outside their normal comfort zones.

Albert Einstein said, “No problem can be solved from the same level of consciousness that created it.” Be an evolution leader by painting a compelling picture, truly considering diverse perspectives, and busting out of your familiar routines.

**Source:** Holly Eckert-Lewis, CPLP | Senior Learning & Development Consultant at Archbright

**What Are the TRUE Costs of Ergonomic-Related Injuries?**by Guest Columnist Deborah Read, President of ErgoFit Consulting, Inc.

In ergonomics work, we most commonly deal with musculoskeletal injuries related to three major types of incidents: **overexertion, slip/trip/falls, and repetition**. Year-over-year these remain the highest cost injuries for all businesses, likely because ergonomics risk conditions are not specifically addressed through OSHA (other than falls above same-level).

According to the Bureau of Labor Statistics’ 2014 stats for total cases of disabling workplace injuries: Overexertion and bodily reaction accounted for 33%. Falls, slips, or trips accounted for 27%. Musculoskeletal disorders (mostly due to overexertion) accounted for 32% of all cases.

**Sprains, strains, or tears were the leading type of injury or illness resulting in days away from work.**

According to Liberty Mutual’s 2016 Workplace Safety Index, U.S. businesses paid nearly $62 billion in direct workers’ compensation costs.

The true total costs of work injuries are typically invisible to executives, directors, and managers. Because they are not accounting for the indirect costs or for the sales revenue required to cover the true total costs.

The **indirect costs** of work injuries are anywhere from **2 to 7 times the direct costs**. This means the true total costs of injuries = direct costs + indirect costs. Here’s an example: Direct cost of $100,000 + Indirect cost (conservative estimate of 3x) $300,000 = True TOTAL Cost of $400,000.

And that’s not the end of the story. How much sales revenue must be generated to break even on that $400,000? If your profit margin is 10%, $4 million in sales is required just to break even on what the executives thought was a $100,000 expense.

It turns out that it is really expensive to not eliminate or reduce ergonomic risk factors! To benchmark your ergonomics program against best practices, take the survey at:

<https://www.research.net/r/ErgoFit_Consultings_Ergonomic_Program_Benchmarking_Tool>

**L&I Proposes 0.7% Increase for 2017 Workers’ Comp Base Rates**

The Washington State Department of Labor and Industries (L&I), has announced a proposed rate increase of 0.7% for the average base rate for workers’ compensation premiums across 324 risk classifications in 2017. Every fall L&I sets workers’ compensation rates based off of expected workers’ compensation payouts, the size of the reserve fund, wage inflation, and other financial indicators.

Unless a company is self-insured, employers and employees in Washington state pay into the State’s workers’ comp system so that if someone suffers a work-related injury or illness they are covered by insurance. About 2.6 million workers and 170,000 employers have State workers’ comp insurance. Last year almost 93,000 work related injury and illness claims were covered by L&I.

The proposed 2017 increase would cost employers an average of about $10 more a year per employee. The proposed rate is an average increase. An individual employer’s actual rate change may be more or less depending on the employer’s industry and history of workers’ comp claims.

As wages and medical costs climb, the cost of providing workers’ compensation coverage increases. Although in Washington state this increase was lower than anticipated. In some other states, workers’ comp insurance has increased as a result of wage inflation and is automatically passed along to employers as rates are charged as a percentage of payroll. Washington State L&I has and continues to put system improvements in place that has allowed for just a portion of increased costs to employers and employees.

**2017 Proposed Experience Factor Calculations Are in for Retro Participants!**

If your company participates in Archbright’s Retrospective Rating program, you can get a sneak peek at your company’s 2017 proposed experience factor rate. Experience Factor, or sometimes referred to as “Experience Modification”, refers to the process of adjusting an employer’s industrial insurance premium rate above or below the “average” or set base rate by comparing that employer’s claims costs to the type of work and the hours reported by the employer. The comparison is made within a designated time period referred to as the “experience period”. In short, a company that has lower claim costs than that of similar sized and like industry employers will have lower rates. Employers with worse than average claims costs will have higher rates.

The average experience factor for companies in the State of Washington is 1.0000. **The average experience factor for participants in the Archbright Retrospective Rating program is 0.8841, and nearly 200 participants have an experience factor under 0.8500.** Thirty-five percent (35%) of Archbright’s group participants have earned a claims free discount, meaning they have received an additional discount on insurance for not having any indemnity claims.

For more information on the proposed workers’ comp rates and what it might mean for your business, or to get a copy of the proposed 2017 Experience Factor calculations for your company, please contact us at 206.329.1120, 509.381.1635, or info@archbright.com.

**Monthly Webinar**

**Safety Committees**

**Thursday, November 17th at 2:15 p.m.**

An effective safety committee unites workers and management in their commitment to workplace safety. It is based on the principle that management and the workforce share in the responsibility for creating and maintaining a safe and healthy workplace. This webinar will cover the basics for employers who are forming new committees or looking at ways to improve on existing committees.

This Webinar will cover the following topics:

* Requirements
* Creating an effective committee
* Roles & purpose
* Meeting organization
* Getting the most out of your committee
* Documentation

This monthly webinar is complimentary for all members of our Workers’ Compensation and Retrospective Rating Programs. Attendees will receive an email approximately one week before the webinar with participation and login information. For questions or more information on our webinar training, please contact safety@archbright.com.

For those not enrolled in our Workers’ Compensation or Retrospective Rating Programs, there is a $49.95 fee. Please contact info@archbright.com for registration information.

“Successful change comes from focusing on building the new, not fighting the old.”

**Did You Know?**

You could be paying too much or too little for your workers’ compensation coverage if you’ve changed the nature of your business or the work your employees do.

You can look up Risk Class definitions on the Washington State Legislature’s website, leg.wa.gov, under WACs 296-17 or simply contact Archbright at 206.329.1120, 509.381.1635, or info@archbright.com.

**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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