**Archbright™**

**Insights Newsletter**

**November 2018**

**The Benefits Policies & Trends Survey Report Is Now Available**

Archbright’s 2018 Benefits & Policies Trends Survey is a refreshing new look at the prevailing and trending benefit and policy practices in our region. We have produced this survey report to help organizations create, modify, and evaluate their benefit and policy plan practices.

This year’s organizational mix represents data from 261 organizations including 180 (69%) for-profit and 81 (31%) nonprofit organizations from across Washington State.

Participation was open to both Archbright members and organizations outside of our membership. Members who participated in the survey receive the report for free. Members who did not participate in the survey receive a discount on the survey based on their membership level.

To purchase this year’s report, visit the Surveys page at Archbright.com.

Questions about how the data was obtained and the results were compiled? Please contact our Survey Team at regionalsurveys@archbright.com.

Questions about how to purchase the survey? Please contact member services at [info@archbright.com](mailto:info@archbright.com).

**More Benefits of Membership**

As the year winds to a close and our focus shifts to 2019, I wanted to take a moment and highlight a couple of benefits of membership that are available to all members regardless of your membership level. There is still time to access them!

* HRCI Recertification Credits. Employees of Archbright member companies may earn up to 12 HRCI credits simply because of their current membership status. For more details login to Archbright.com and visit the HRCI page under Member Home.
* HR Answers Now. This national database is available to all Archbright members and includes full texts of employment law and regulations for all 50 states plus Washington D.C. It one of the most complete and detailed resources for state employment laws available today.

If you’d like to take advantage of either of the above options, just reach out to Anna Muller, Member Service Representative, at amuller@archbright.com. She is ready to assist!

Also, a reminder that it is renewal time! Remember, your annual membership will auto-renew at your current membership level on January 1st. Please email Anna in writing by December 1st if you want to make any changes to your membership for 2019.

Our different levels of membership allow you to more closely align our core services with your organization’s needs. If you foresee a need for more legal support in 2019 or if you are planning on sending more employees to Archbright University, I encourage you to take another look at our silver and gold levels. (These are just a couple of examples; your Account Executive can also help you evaluate your options.)

From all of us at Archbright, thank you for your continued membership!

**Legal Update: What’s Coming in 2019?**

Federal, State, and local lawmakers have certainly kept employers and employment law advisors busy with employment law changes in recent years! Employers in Washington, Idaho, and Oregon have all been affected by the changes – and will continue to be impacted as we look ahead to 2019.

2018 was a year of changes for Washington and Oregon – notably the secure scheduling law that became effective in July for Oregon employers, and the Washington State Paid Sick Leave law that became effective January 1, 2018. 2019 is expected to be another year of change – starting with the expansion of Oregon’s Equal Pay Law to include enforcement provisions, and the beginning of premium assessments for Washington’s Paid Family and Medical Leave law, both effective Januarys 1, 2019.

By now, all employers in Washington should be planning for the upcoming Paid Family and Medical Leave premium assessments that will begin on January 1, 2019. Beginning January 1, 2020, family and medical leave will be available through a State administered

plan to all employees employed by an employer in the State of Washington. Funded by premiums paid by both employers and employees, family and medical leave insurance benefits will be payable by the Employment Security Department (ESD) to employees during a period in which they are unable to perform their regular or customary work because of the need for family and medical leave.

The Department of Labor is expected to update the Fair Labor Standards Act (FLSA), increasing the salary threshold for exempt status. The DOL announced its intention to issue a Notice of Proposed Rulemaking in March of 2019 to determine what the salary level for exemption of executive, administrative, and professional employees should be. Washington, however, has already begun its rulemaking process for its own State law change. Among the proposed changes is the introduction of a minimum salary threshold that is 1.5 to 3 times the state minimum wage. The timeline for this change is still to be determined.

Archbright’s Legal and HR Advice team is continually following and ready to help you navigate these many changes in federal and state laws.

**Class Certificates**

Did you know that you can view and print certificates through Archbright.com for classes you’ve attended?

Just log into the website, go to the Store drop-down menu in the upper left, and choose My Account. If you have certificates available, they will display in the My Certificates section beneath My Balances. Click print and they will open as a PDF document.

If you are a designated Account Coordinator, you can access certificates for anyone at your company. Just log into the website, go to the Store drop-down menu in the upper left and choose Coordinator Dashboard. Find the attendee in the list, and select the cart icon that pops up with the text Impersonate Account. Then follow the directions above to navigate to their certificate screen. Remember, you can always reach out to us with any website questions!

**Washington and Oregon Strengthen and Expand Equal Pay Laws**

Washington and Oregon have recently strengthened and expanded existing state equal pay laws.

Effective January 1, 2019, Oregon’s equal pay law is expanding to prohibit discrimination against employees on the basis of an employee’s membership in any protected class in the payment of wages or other compensation for work of comparable character – i.e., work that requires similar knowledge, skill, effort, responsibility and working conditions, regardless of job description or job title. A differential may be permissible if it is based on a bona fide factor related to the position and is based on a: seniority or merit system, system measuring earnings by quantity or quality of production, workplace locations, travel (if necessary and regular), education, training and/or experience.

Effective June 7, 2018, Washington’s equal pay laws expanded to prohibit discrimination based on gender for compensation and career advancement opportunities for employees who are similarly employed – requiring similar skill, effort, responsibility, and under the same working conditions. Compensation includes all discretionary and nondiscretionary wages and benefits, including, for example, bonuses, PTO, profit-sharing, and expense accounts. In terms of career advancement opportunities, employers are prohibited from failing to announce or provide access to opportunities or provide training that is under the employer’s control. A compensation or career advancement

differential is not discriminatory if it is based in good faith on bona fide job-related factors that are (i) consistent with business necessity; (ii) are not based on or derived from a gender-based differential; and (iii) account for the entire differential. Examples of bona fide factors include: education, training, experience, a seniority or merit system, a system measuring earnings by quantity or quality of production, or regional difference in compensation levels.

Oregon and Washington laws also include restrictions on the use of prior salary histories. In Oregon, effective January 1, 2019, employers may not screen job applicants based on current or past compensation, or use a prospective employee’s current or past compensation to determine compensation for a position. An exception to this rule exists for current employees of the employer during a transfer or move to a new position with the same employer. Employers may request written authorization from an applicant to confirm prior compensation after making an offer of employment that includes an amount of compensation.

In both states, employers may not rely on salary history to justify a pay disparity. Washington’s equal pay law also provides a measure of pay transparency. Employers may not discipline or retaliate against employees who discuss wages, ask about pay or advancement opportunities, or aid or encourage others in exercising their rights.

As a reminder, all bronze, silver, and gold members may contact the HR Hotline for any questions.

Source: Ami De Celle, Attorney

**HR FAQ**

**Question:** We don’t provide termination letters to all the employees we terminate from employment. Do we need to?

**Answer:** Employers are not required to provide a letter of termination to employees unless specifically requested in writing by the employee. As a result, we do not recommend employers provide termination letters that include a specific reason for the termination. It is recommended to provide an operational letter that includes the employee’s official last day, PTO/vacation payout, COBRA information etc.

An employer is only obligated to provide a letter of termination including the reason for termination if the former employee requests one. The letter must be provided within 10 days of the former employee’s written request (an e-mail request is sufficient). The letter should also include the dates of employment and the position held. Since this letter is an official statement by the company, we recommend it be carefully worded. Archbright attorneys are available to help eligible members draft the letter or review it before it is sent.

**OSHA Clarifies Rules on Post- Accident Testing & Safety Incentive Plans**

On October 11, 2018, OSHA released new guidance to clarify the Department of Labor’s position on post-accident drug testing and workplace safety incentive programs.

In 2016, OSHA published a final rule that, among other things, prohibited employers from retaliating against employees for reporting work-related injuries and illnesses. Within that final rule and interpretive documents, OSHA established that blanket post- accident drug testing and certain safety incentive programs were prohibited because they could deter reporting of an injury or illness. Since 2016, prudent employers removed blanket handbook/policy language on post-accident drug testing and ceased safety incentive programs, such as free lunch for a department that is accident-free for the month.

OSHA’s memorandum last week offers clarification that blanket drug testing policies are no longer prohibited. However, if post-accident drug testing is required, OSHA stipulates that employers must administer testing evenly to everyone involved in the accident, not just to those who reported it.

Further, OSHA clarifies that incentive programs that reward low or no reported injuries or illnesses are only permissible if the employer can show that they have implemented adequate precautions to ensure that employees feel free to report an injury or illness. A statement that employees are encouraged to report and will not face retaliation for reporting may not, by itself, be adequate. Employers

are instead encouraged to provide incentive programs that encourage involvement in safety and health management, such as identifying unsafe conditions in the workplace or participating in training.

Remember, all bronze, silver, and gold members may contact an Archbright HR Advisor to discuss how this new memorandum may affect your policies and practices relating to post-accident drug testing and/or safety incentive programs.

Source: Joy Sturgis, Senior HR Advisor

**Minimum Wage Increases January 1, 2019**

Reminder: Effective January 1, 2019, Washington’s standard minimum wage will increase to $12.00. Tacoma’s minimum wage will increase to $12.35 per hour. Seattle’s minimum wage will increase to $16.00 for all large employers (employing more than 500 workers worldwide) and $15.00 for small employers (with 500 or fewer employees). Small employers may meet the $15.00 minimum wage by paying no less than $12.00 per hour in wages and contributing at least $3.00 per hour toward an employee’s medical benefits and/or reported tips. The two-tier system for large employers ends in 2019.

**Only One in Three Workers Are on Track to Retire Comfortably by Age 67**

If current employee savings trends continue, half of workers will need to wait for retirement until at least age 70 to be considered financially prepared, according to findings from The Real Deal: 2018 Retirement Income Adequacy study released by Aon, the leading global professional services firm providing a broad range of risk, retirement and health solutions.

The 2018 Real Deal study sheds light on the most critical questions employers need to ask as they help employees prepare for a financially secure retirement:

* How much money do workers need to retire and maintain their standard of living? While every employee’s needs are different, the average employee needs to save about 11 times their final pay for adequate retirement at age 67.
* Are today’s workers prepared to meet their needs at retirement? Two in three U.S. workers are projected to fall well short of the target resources needed to maintain their standard of living at age 67.
* How much do employees need to save on top of what employers are providing in retirement income? On average, employees should have 16 percent of pay going into their retirement accounts every year to accumulate about 11 times pay by age 67. If an employee is receiving 6 percent from their employer, that means they would be responsible for the remaining 10 percent. Employees who save even more may increase their ability to retire early.

Employers need to address a combination of factors—including investment experience, longevity and retirement age—to help employees save more and invest their savings appropriately, but the employee’s savings rate is the greatest factor. The proportion of annual pay that people tend to save is 4 percent to 7 percent, which is often influenced by the amount required to receive a full employer match. Employees need help gaining a realistic sense of how much they need to save to achieve retirement goals. For example, if the average worker boosted their savings rate by 5 percentage points tomorrow, they would be close to an adequate retirement at age 67.

“Retirement readiness is ultimately about each individual’s goals and resources, and every person’s adequacy calculations are unique,” said Rob Reiskytl, a partner at Aon. “Providing information about how much one should save to reach their retirement goal can be a concrete way to set up employees for financial success in retirement.”

The study also highlights individuals who are on track for retirement. Specifically, two out of three workers with a defined benefit plan are on track to retire on time, as well as half of employees over the age of 50.

“Employers have a big opportunity to help their employees determine the best savings plan, providing them with tools like financial wellbeing programs and budgeting systems, and

educating them on being financially-savvy can all help close the retirement readiness gap,” said Reiskytl.

Source: CCH

**aPHR: Associate Professional in Human Resources™**

The first-ever HR certification designed for professionals who are just beginning their HR career journey

HRCI’s Associate Professional in Human Resources™ (aPHR™) is a certification to help fast-track your career growth and provide you with the confidence to launch into the HR profession. The only requirement is a high school diploma or global equivalent, no HR experience is required.

The aPHR is a perfect program for recent college graduates, armed services men and women making the transition to civilian life, or other professionals seeking support for their career transition into the HR field.

If you, or someone in your organization, would benefit from earning an aPHR, Archbright can help. Our 6-week aPHR certification exam prep course covers the six functional areas of the exam:

* HR Operations
* Employee Relations
* Recruitment and Selection
* Compensation and Benefits
* Human Resource Development and Retention
* Health, Safety, and Security

Our next session starts on Thursday, February 7 and ends on Thursday, March 14. Classes are from 7:30am to 10:30am at Archbright’s Seattle office. Registration is now open on the website. Sign up today!

Did you know that Archbright offers certification support in other ways?

1. As an Archbright member, you not only receive a discount on the registration fee for our exam prep program, you also receive a $50 discount on the exam fee.
2. And, once certified, Archbright can help you maintain your certification. You can earn up to 12 recertification credits each year simply because you are a member.

For more details on these member benefits, contact us at [info@archbright.com](mailto:info@archbright.com).

**It’s Membership Renewal Time!**

As we approach the end of the year, you once again have the opportunity to change your membership level. All members have received an email with more information about next year’s levels. Once you have reviewed, you will need to inform us of any changes by December 1st. If you haven’t seen an email from us, please email Anna Muller at amuller@archbright.com and she will resend that to you.

Note: if you would like to remain at the same level for 2019, then you do not need to do anything. Your membership will automatically renew on January 1, 2019. If you have any questions about the 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!

**Safety Incentive Programs**

No one goes to work expecting to get injured. In fact, we leave for work everyday to ensure we can provide for our families. The only way we can do so is if we come back whole and able to repeat this daily.

Safety should be a value of business. It saves you time, resources, and can dramatically affect a company’s bottom line. Not to mention the pressure it can apply to one’s conscience if you are routinely having injuries to your employees. So as an organization, how do we incentivize being a safe employee?

The end goal of a Safety Incentive Program is to reduce the potential for accidents and injuries. However, not all programs are created equally or structured properly. Many organizations at one time believed the best way to lower their Workers’ Compensation premiums was by monetarily incentivizing a finite amount of recordable injuries. Unfortunately, this led to many poorly designed programs that encouraged under reporting.

In May of 2016, Occupational Safety and Health Administration (OSHA) began enforcing a new reporting and electronic recordkeeping requirement:

“You must not discharge or in any manner discriminate against any employee for reporting a work-related injury or illness.”

Companies are no longer allowed to incentivize a lack of recordable injuries. It can become discriminatory and can also undermine both Workers’ Compensation premiums and the overall integrity of organizations across the country.

Does this mean that all incentive programs have been eliminated? Companies are allowed to have incentive programs, as long as it promotes behavior-based safety rather than reactive monetary incentives for few or zero recordable injuries.

So, what can constitute positive Safety Incentive Programs? Incentive programs can reach their greatest potential when employee involvement is at the forefront. This means encouraging employees to participate in the oversight of the daily safety behaviors of themselves and those around them. In other words, proactively looking for hazards before they can cause an injury or incident and reporting these hazards immediately.

Please join us November 15th during our monthly Safety Webinar to learn more about Safety Incentive Programs. For questions or more information, please contact your Safety & Loss Control Consultant at 206.329.1120, 509.381.1635, or email safety@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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