**Archbright™**

**Insights Newsletter**

**February 2018**

**Helping Employees Balance Their Work, Family, and Personal Life**

Recent studies show what all of us in HR have known for years—that helping employees handle their personal stress decreases absenteeism, boosts productivity, and increases employee engagement.

Because managers and HR teams are generally not trained to provide counseling or therapy to employees, an Employee Assistance Program (EAP) offers a way to help employees deal with those life and work issues that fall outside the expertise of their company’s internal resources.

This unique employee benefit supports employees with problems that impact their job performance, health, mental state, and emotional well- being. According to the Department of Labor, EAPs most frequently assist employees dealing with alcoholism, drug abuse, marital difficulties, financial stress, emotional problems, and legal issues.

At Archbright, we partner with KEPRO to provide all members the opportunity to offer the support of an EAP to their workforce

at a discounted price. KEPRO’s EAP consultants take a comprehensive approach to identify those issues impacting the employee and assist them in developing meaningful solutions to impact their well-being, performance, and effectiveness.

If you have considered introducing an EAP to your organization, email us at info@archbright.com or call 206.329.1120 or 509.381.1635 for more information.

**What’s Safety Got To Do With It?**

When CEOs think about Employee Engagement they often think of it in terms of increasing employee retention and productivity. And truly the data supports those

outcomes. Gallup reports employers with high employment engagement have 65% lower turnover and 21% higher productivity. But there is another area that high employee engagement can impact—SAFETY.

According to the Occupational Safety and Health Administration (OSHA), it is estimated that employers pay

$1 billion per week for direct workers’ compensation, as a result of accidents within the workplace. Safety matters. It’s not only a matter of life and death in some cases, it dramatically hits our bottom line! As CEOs, we often don’t think of safety in relation to employee engagement. But when you take a look at the data, it becomes more clear there is a connection. According to Gallup, those in the highest quartile for employee engagement see 70% fewer safety incidents. The numbers tell a compelling story— employee engagement and a strong corporate culture must be our number one priority as CEOs.

When’s the last time you measured YOUR employee engagement? It might be time to take a closer look!

Consider Archbright’s Employee Satisfaction Survey (ESS) with the Employee Engagement Index as a measurement tool to uncover underlying dissatisfaction and disengagement within your organization. Archbright also supports more than 350 of its 1,000+ employer members with a comprehensive program of workers’ compensation services. We not only save these members money, we help them build safer, more engaged workforces! And now, through our 6-month Workers’ Compensation Tune-Up program, we can help employers who have a high L&I experience factor (1+) perform better so they can lower L&I premium costs and enter a Retrospective Rating Program to qualify for an annual rebate on premiums paid! Contact your Archbright Account Executive for more information about our Employee Satisfaction and Engagement Surveys and the Workers’ Compensation Tune-up!

**CoffeeTalk: Exploring Washington State’s Paid Family & Medical Leave Act**

In July, Washington State joined California, New Jersey, Rhode Island, and New York and enacted a Paid Family and Medical Leave Act (PFML). Many more employees are eligible for leave under PFML than are eligible for FMLA. PFML can be taken to care for a broader number of family members.

In this CoffeeTalk, Archbright’s Erin Jacobson, Staff Counsel, and Joy Sturgis, HR Advisor, will review the legislation and discuss its potential impact when the law takes

effect in two phases in 2019 and 2020.

We hope you can join us for this timely and relevant topic.

When: March 28 | 8:30 am to 10:30 am

(8:30 am Check-in begins; 9 am Program begins) Where: Hotel RL Spokane at the Park | Skyline Room Cost: FREE | a continental breakfast will be served Register Today! Seats are limited.

We welcome a maximum of 2 attendees per organization.

**Affirmative Action Planning You Can Count On**

You are required under Federal law to have a written affirmative action plan in place if your organization has at least 50 employees and meets one or more of the following criteria:

* You have $50,000+ in federal contracts/subcontracts per year.
* You supply products/services that total $50,000+ to companies that have federal contracts/subcontracts and 50 or more employees.
* You serve as a depository of government funds or act as an agent for U.S. Savings Bonds and notes.

We have been preparing Affirmative Action Plans for more than a decade. We can help you navigate the labyrinth of paperwork, shifting laws, and codes.

We’ll provide:

* The creation of an entirely new plan for one or multiple locations, with all necessary statistical reports.
* Thorough and comprehensive review of your plan data to identify inconsistencies and missing information that may skew your plan results.
* An interactive review of your plan document with explanations of the data and your plan results.

Let us help with your Affirmative Action Plans. We provide the support you need to ensure your organization conforms to the law.

**Presenting … The Archbright Legal and HR Staff**

Kellis Borek is the Vice President of Labor & Employment Services and General Counsel for Archbright. She oversees Archbright’s team of attorneys and HR Advice professionals who provide advice and counsel regarding all aspects of local, state and federal employment and labor law to employers in Washington, Idaho, and Oregon.

Julie Bogue-Garza is a seasoned HR and Organizational Development Consultant and joined Archbright in July of 2016. She enjoys partnering with members to help them define their organizational people strategies to leverage the skills and talents of their workforce and maximize their business effectiveness.

Kathy Iverson has over 20 years of management level human resources experience in several arenas from not-for-profit to corporate environments to manufacturing, both union and non-union. She has experience creating HR structures where little to nothing existed, recruiting top talent, reviewing handbooks for compliance, and offering harassment prevention and HR supervisory training.

Erin Jacobson, Staff Attorney for Archbright, provides legal advice and counsel to members, conducts and advises on independent investigations and labor negotiations, trains members on employment laws and policies, and teaches Employment Law and Labor Relations as an adjunct professor at Gonzaga University.

Katherine Kummerow is a Senior HR Advisor at Archbright. Through our HR hotline, she works with Archbright members to manage daily HR issues and ensure they remain compliant with state and federal laws. Katherine also trains Archbright members on key areas of compliance, including workplace harassment awareness, understanding human resources legal issues, FMLA administration, and wage and hour compliance.

Joy Sturgis, SPHR/SHRM-SCP, has 15 years of managerial and director-level human resources experience in both manufacturing and service organizations. As an Archbright HR Advisor, her responsibilities include supporting members with a variety of HR functions including HR advice and counsel, handbook and policy review, and employee development and compliance training.

**NLRB Revises Interpretation Regarding Workplace Rules**

All employers, whether unionized or not, now have more leeway to enforce reasonable workplace rules after a recent decision by the new administration’s National Labor Relations Board (NLRB). Before this decision, employers were limited in their ability to enforce certain policies as the prior NLRB would not allow workplace rules that could have even the slightest impact on employees’ right to discuss, document, and publicize their working conditions.

Under the new interpretation, however, the NLRB will no longer automatically reject policies that may impact employees’ rights to engage in this type of activity. Rather, the NLRB will balance such employee rights with employer interests in issuing workplace rules.

The new “balancing test” results in three categories of workplace rules:

1. Rules that are automatically lawful because the limited impact on employees’ rights is outweighed by employers’ interests in enforcing the rules. Examples of now-lawful rules in this category include requirements that employees be civil and respectful at work and prohibitions on cameras at work.
2. Rules that require a closer look to determine whether the employer’s interest outweighs the impact on employees’ rights. There are no case applications yet to provide specific examples of which rules would fall into this category, but expect them to be forthcoming now that the NLRB announced its new test.
3. Rules that are automatically unlawful because the impact on employees’ rights is not outweighed by employers’ interests. A prohibition on employees discussing wages is an example of a rule that remains clearly unlawful even under the new balancing test.

Archbright will continue to monitor NLRB decisions that apply this new balancing test and update our sample policies and handbook reviews accordingly. If you have any questions regarding how this new interpretation impacts your company’s workplace rules, please contact an Archbright HR advisor or labor counsel.

Source: Erin Jacobson, Attorney at Archbright

**Talent Shortages Forcing Employers to Change Hiring Tactics**

With the unemployment rate for college-educated workers at around 2 percent, employers are finding it difficult to recruit top talent in many professional occupations. In a recent survey from global staffing firm Robert Half, 65 percent of CFOs said it is at least somewhat challenging to identify skilled workers for current job vacancies.

To cast a wider net, 51 percent of executives are considering entry-level applicants for roles that historically weren’t open to them, and an equal percentage are expanding their search geographically. Other strategies include bringing on interim professionals, shortening the recruiting process and loosening job criteria.

Robert Half offers the following advice for employers:

1. Re-examine your hiring criteria. Identify must-have attributes and skills that can be taught on the job. Develop a strong onboarding program to help new employees get up to speed quickly and learn your company’s systems and processes.
2. Amp up active recruitment. Long gone are the days when you can advertise a job opening and wait for skilled professionals to apply. Keep your eyes and ears open. No matter what type of event you are at, be ready to describe your company’s exciting job opportunities.
3. Consider remote options. Give potential employees the option to work remotely, if the nature of the job allows for it. This flexibility enables you to tap a wider base of professionals.
4. Partner with a recruiter. Staffing professionals can help you quickly find and secure candidates you may not be able to identify on your own. They’ll also handle other aspects of the hiring process such as posting job openings, interviewing applicants, checking references, extending offers and negotiating compensation.
5. Leverage employee referrals. Ask employees if they know people who would be good additions to the team, as your staff are more likely to refer candidates who they think will be a good fit. Implementing an employee referral program can also be a powerful recruiting tool.

Source: CCH

**2017 EEO-1 Survey Filing Period Now Open, Deadline is March 31**

The 2017 Employer Information Report EEO-1, commonly known as the EEO-1 Report, is now open. Federal regulations require that all employers in the private sector with 100 or more employees, and federal contractors and subcontractors with

50 or more employees and a federal contract or subcontract amounting to $50,000 or more, file the EEO-1 Report annually. The filing deadline is March 31, 2018.

Covered employers are required to provide workforce profiles by race, ethnicity, sex, and job category. The employment data used for the 2017 EEO-1 report should be collected using a payroll period in October, November, or December 2017, the fourth quarter of calendar year 2017.

**Medical Marijuana and the Workplace Update: 12 States Poised to Legalize Marijuana in 2018**

Though marijuana remains illegal at the federal level, thirty states and the District of Columbia now have laws broadly legalizing marijuana in some form. Of these states, nine states, including Washington and Oregon, allow for legal use of recreational marijuana. In 2018, 12 states will launch initiatives or legislation to legalize pot for recreational and/or medical use. In the face of this trend, many employers across the country remain confused as to how to enforce drug free workplace policies. Increased conflict between federal and state positions, such as Attorney General Jeff Sessions’ announcement this month to rescind an Obama-era policy that discouraged federal prosecutors in most cases from bringing charges wherever the drug is legal under state laws, adds to the confusion. Although no state laws tolerate on-the-job use, employers must be prepared for the fact that it is now much easier to obtain marijuana, stigmas on use are disappearing, and the legal landscape at the state level is evolving quickly.

Oregon and Washington employers should pay attention to two pot cases from 2017. In the majority of states, employers do not have to make accommodations for medical marijuana use under State law. The Americans with Disabilities Act (ADA) provides that employers need not accommodate the use of illegal drugs. However, in July of 2017, a Massachusetts Supreme Judicial Court ruled that marijuana used for medicinal purposes is just as lawful as other medications used by employees – and as long as an employee can perform the essential functions of the job, is not impaired on the job, and is ready and willing to work, the employer must engage in an interactive process to determine if reasonable accommodation can be made. Similarly, a Rhode Island court recently ruled against an employer for refusing to hire a medical marijuana cardholder because of an inability to pass a mandatory pre-employment drug screen. The court ruled that discrimination could be shown based on the individual’s disability.

These court decisions focused on the underlying issue that the use of medical marijuana demonstrates that the individual has a medical condition. Therefore, employers must engage in an interactive process even if medical marijuana use itself does not have to be accommodated by law.

The 9th Circuit, which includes Idaho, Oregon, and Washington, has historically ruled that the ADA does not protect individuals who use marijuana for medical purposes or require accommodation for such use. However, it is important to note that medical marijuana laws

in Washington and Oregon are similar to those in Massachusetts and Rhode Island, leaving the door open for new interpretation by the State courts.

Employers must establish clear drug-testing and drug-free workplace policies and consult with counsel to ensure that policies and procedures are in compliance with State and federal laws. Contact a member of the Archbright Advice and Counsel team for assistance.

Source: Joy Sturgis, HR Advisor at Archbright

**HR FAQ**

Question: My Operations Manager produces great results, but her people say she’s mean. Do I have to sacrifice results for better manners?

Answer: It’s often easier to tolerate the ‘tough-minded’ employee who produces results, but bad behavior in the workplace can eat away at a healthy workplace culture. It’s the latest issue in employee relations – incivility at work. Complying with anti-harassment and anti-discrimination laws isn’t enough. Employers are encouraged to look deeper into the culture of the organization and address incivility. What is it? Seen as a silent epidemic, it takes form in rudeness, discourteous behavior, lack of respect, selfishness, and workplace cliques. The EEOC notes that “workplace incivility often acts as a gateway drug to workplace harassment.”

Workplace bullying falls in this category of incivility. While it may not be illegal on the surface, tolerance of bullying behavior creates tacit permission for it in the workplace – and it can easily spread. Consider the mean Operations Manager – correcting an error is part of the job, but belittling an employee for an error crosses the line into incivility.

Coworkers pick up on this, and over time, may make cutting remarks about each other. Over time, it contributes to a culture of incivility, and in some cases, turns into illegal harassment.

As a manager, it’s important to recognize not just illegal acts, but behavior that makes employees feel undervalued or uncomfortable. Set a positive example by praising acts of kindness. Actively discourage teasing and pranks, no matter what the intent of the jokester. Be polite and interested in your team. Make sure new hires have someone to join them for lunch. Look for ways that teams can interact in a positive manner. Most importantly, let the team know your business isn’t just a great place to work, it’s a nice place, too!

**Performance Coaching: A Powerful Tool for Leaders**

At Archbright, we frequently administer Employee Satisfaction and Engagement surveys for members. These surveys are designed to uncover underlying dissatisfaction and disengagement within an organization and set the stage for developing an action plan to resolve any issues found through the process.

As a result, we see several reoccurring themes. At the top of the list is employees’ frustration with their employer’s performance management system—including not receiving timely performance feedback, not getting specific performance feedback information, and believing that their manager is not effective at providing performance feedback or dealing with the poor performance of their fellow employees.

**In addition, employees are frustrated that their employer does not provide them with development opportunities and information about how to advance in their careers.**

In defense of managers, they often don’t understand that is the job of leaders to actively manage employee performance, nor do they know how to do so successfully. Many of them were effective individual contributors who were promoted to supervisor but then did not receive training on performance management, let alone performance coaching.

Performance coaching is a 180-degree shift away from the traditional performance appraisal approach. It focuses on the ongoing conversation between manager and employee that allows supervisors to stop being a critic or judge and function instead like a coach.

At Archbright, we use and advocate for one such performance coaching approach: Catalytic Coaching. Catalytic Coaching, developed by Gary Markle of Energage, Inc., is markedly different from the traditional Performance Appraisal in 3 key aspects: Process, Content, and Roles:

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
|  |  | Traditional Performance Appraisal |  | Catalytic Coaching’s Performance Development |
| Process: | | | | |
| * Time Focus * Length of feedback forms * Primary Customer | •  •  • | Past  Multiple pages  Management and the “HR file” | •  •  • | Future  1-2 pages  The Employee |
| Content: | | | | |
| * Rating Scale * Competitive Ranking * Emphasis on Employee Input | •  •  • | 3, 4, 5, x? point scales Stacked and other forms Incidental | •  •  • | None! None! Pivotal |
| Roles: | | | | |
| * Boss * Employee * Sr. Management & Human Resources | •  •  • | Evaluator/Judge Passive Recipient Process Police | •  •  • | Coach  Empowered Career Craftsperson Coach of Coaches |

The unique process of Catalytic Coaching brings out the best in people at work. How? It fixes what’s broken with the traditional performance review by empowering employees to take ownership of their professional development. Along the way, it delivers:

• Positive behavioral change

• Motivation to work hard

• Retention of key contributors

• Internal promotions and succession

• Prevention of and protection against lawsuits

Learn how Archbright can help you seamlessly integrate employee engagement into your performance management system through Catalytic Coaching. To find out more, call us (206.329.1120 or 509.381.1635), visit Archbright.com, or email info@archbright.com.

Source: Joseph Marth, Vice President, Business Solutions Group at Archbright

**Time for an Update**

A new year often brings a time of reflection, and an out with the old, in with the new mentality. New habits don’t have to just be personal habits. Maybe it’s time for your work place to implement new safety programs and policies and create improved workplace safety habits.

How long has it been since you reviewed and updated your written safety programs? Ideally safety programs are living documents and updated annually as changes are made. Has it been longer than a year since they have been looked at? How about longer than five years (2013)? Are you ready to review, replace or implement new programs or policies? Do you even know where to begin?

Archbright has several tools available to help members determine what safety programs and training topics are required for your company, as well as sample resources for you to customize each topic for your workplace. Each month

in 2018, we will be hosting a safety webinar focusing on some of the most commonly required programs and trainings topics. Each webinar will include a turn-key package of resources to help you ensure compliance as well as best practices in your work place. Webinars are complimentary for all members of our Workers’ Compensation and Retrospective Rating Programs, and available for a small fee for members who do not participate in one of these programs.

The 2018 webinar lineup includes:

* **February – Accident Prevention Program**
* **March – Hazard Communication Program**
* **April – Lock-Out/Tag-Out Program**
* **May – Hearing Conservation Program**
* **June – Respiratory Program**
* **July – Confined Space Program**
* **August – Fall Protection Program**
* **September – Safety Orientation**
* **October – Job Hazard Analysis (JHA)**
* **November – Safety Incentive**
* **December – Safety Committees**

Webinars are held at 2:15pm on the third Thursday of every month. Mark your calendars now to ensure you don’t miss any of these important topics. For questions or more information on our webinar training, please contact safety@ archbright.com or visit Archbright.com.

**Need More?**

If the thought of reviewing your required written programs and training topics makes you weak in the knees, or if you have good intentions but it never gets done, Archbright’s custom Safety Flex services might be exactly what you need!

Whether you are interested in evaluating where your safety program is currently at, would like help identifying what programs are required in your workplace,

or you would like someone to write the programs for you, we can help. Please call 206.329.1120 or email safety@archbright.com today to find a customized solution for your workplace.

**Monthly Safety Webinar**

Accident Prevention Program

Thursday, February 15

2:15 p.m.

Your accident prevention program and supporting policies are the foundation of accident prevention and your organization. How you build and maintain your safety foundation can be the difference between an effective program and a failing program. Join us to learn the ins and outs of creating an effective Accident Prevention Program, and ensuring your program is effective in practice and not based on dusty binders on a shelf.

Topics include:

* What is Required
* Benefits
* Included Programs
* Management Support
* Effective in Practice (no dusty shelf riders)
* Beyond the Basics

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.

The webinar is also available to members not enrolled in our Workers’ Compensation or Retrospective Rating Programs for a registration fee. Please visit archbright.com or contact info@archbright.com for more information.

A good safety record does not come by accident.

Did You Know?

All employers in Washington State are required to have a written Accident Prevention Program (APP). Many businesses regard their APP as the cornerstone of their safety program. To meet the written program and other APP requirements, businesses must:

* Identify workplace hazards that could hurt their employees
* Find and apply ways to reduce or eliminate hazards
* Provide a detailed safety orientation to employees so they understand the possible hazards of their particular job and how to work safely.
  + Washington State Dept of Labor & Industries

**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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