**Archbright™**

**Insights Newsletter**

**August 2018**

**Recruiting Support in a Tight Market**

In today’s job market, companies are struggling to find not only candidates, but the time to focus on recruiting. If you are a hiring manager, it can feel like you have to post your opportunity everywhere and then monitor responses 24/7 in order to connect with just a handful of qualified candidates. In fact, recent Glassdoor research shows:

* 51% of workers/job seekers say their preferred source for finding a relevant new opportunity is an online job site
* 45% prefer to hear about a job from a friend
* 35% prefer to find opportunities on a company’s careers site
* 34% say they’d like to have a recruiter or hiring manager proactively reach out to them
* 20% prefer to find a new job via social media

With so many channels to manage, creating a quality candidate pool may seem like an overwhelming task. Archbright can help.

For 60 days and a flat fee, Archbright’s recruiting consultants follow our proven methodology to source the best candidate pool possible for your open position. We work closely with you to create a plan that supports your company’s culture and management style. From job posting to phone-screening applicants, we have you covered.

For help finding your next hire, visit Archbright.com, call us at 206.329.1120, 509.381.1635, or email info@archbright.com.

**Prepping your HR Newbies for a career in HR!**

Many of us in HR did not start our career with an HR degree. In fact, I’d venture to say most of us are ‘accidental’ HR Pros. As I think back to my early professional days, I can see that more training and education in the field would have been helpful to me! HR is as challenging as it is rewarding, with its changing landscape and complex laws. Archbright is always here for you, whether it’s a call to our HR Hotline, a consultation with an employment attorney, a couple of days in our HR Fundamentals course, or a browse of our online HR Toolkit.

As you may know, for the HR Pro with experience, Archbright has a way to help you certify your knowledge by helping

you prep for one HRCI’s Professional in Human Resources (PHR®) or Senior Professional in Human Resources (SPHR®) certification exams. These are great certifications for the

HR Pro with proven experience, but what about the newbie to HR?

I’m excited to let you to know that HRCI now offers a certification to those of you who are brand new to the HR profession. The Associate Professional in Human Resources™ (aPHR™) is the first-ever HR certification designed for professionals who are just beginning their HR career journey and demonstrates your knowledge of foundational Human Resources. It does not require prior HR experience or a college degree! This is great news for many of our members and Archbright is pleased to also announce we now offer a

6-week aPHR certification exam prep course that covers the six functional areas of the aPHR exam!

If this fits you or a colleague, please register for Archbright’s upcoming aPHR Certification Prep course through our website! Classes occur at 7:30am to 10:30am on Wednesday mornings. Registration is now open at Archbright.com for the September 12 – Oct 17 session!

**Vancouver CoffeeTalk: Managing Attendance Abuse in a Protected Leave Law World**

Absence management can take an inordinate amount of time for both HR professionals and managers. Laws in recent years have challenged the ability of employers to enforce attendance policies as they pertain to employees who miss work because of certain health conditions and have rendered no-fault systems (where points are accumulated) relatively ineffective.

In this CoffeeTalk, Archbright’s Senior Human Resources Advisor, Katherine Kummerow will offer reasonable options in today’s difficult climate.

Highlights of the talk will be the Washington Paid Sick Leave Law and tips for managing PFML in 2020.

When: September 13 | 9:00 am to 10:30 am

(8:30 Check-in Begins; 9:00 am Program)

Where: Clark College CTC Room 1444 18700 SE Mills Plain Blvd. | Vancouver, WA

Cost: FREE | a continental breakfast will be served

**45% of workers have observed unethical or illegal behavior on the job. We can help.**

**Tackling Ethical Issues**

According to the Ethics Resource Center, 45% of workers observe unethical or illegal behavior while on the job each year. 60% of these violations were committed by those in supervisory or managerial roles. Some of these acts will create immediate, significant problems for employers.

Other acts may begin as minor but snowball into large, out-of-control situations.

Employees are faced with dozens of decisions every day. Tackling Ethical Issues gives participants the information, tools, and practice they need to make the best decisions in the workplace—for themselves, their companies, and their customers. Employees will feel empowered to take the ethical path and to be accountable to others for these decisions.

After completing this class, participants will be able to

* Recognize unethical behavior
* Express ethical concerns constructively
* Manage ethical dilemmas where there is not a clear answer
* Act with respect, responsibility, and results

Seattle | Tuesday, September 4, 9am-12pm

Register online at Archbright.com or contact us at 206.320.1120, 509.381.1635, or info@archbright.com for more information.

**Interns Versus Employees Under the FLSA**

Whether interns are considered employees under the FLSA and state law, and thus entitled to the minimum wage for all hours worked and overtime after 40 hours, depends upon a variety of factors.

Under the FLSA, most interns are actually considered employees subject to the FLSA’s minimum wage and overtime requirements. Prior to 2018, to determine whether a trainee was an employee under the Act, the US Department of Labor’s Wage and Hour Division applied a 6-factor test where all six criteria must be met before an individual would be exempt from the definition of employee.

In early 2018, the United States Department of Labor issued a Fact Sheet that uses the “primary beneficiary” test for determining whether interns are employees under the FLSA. This test examines “the ‘economic reality’ of the intern-employer relationship to determine which party is the “primary beneficiary of the relationship.”

The 7 factors that courts should now apply on a fact specific basis in making this determination include:

The extent to which the intern and the employer clearly understand that there is no expectation of compensation. Any promise of compensation, express or implied, suggests that the intern is an employee—and vice versa.

The extent to which the internship provides training that would be similar to that which would be given in an educational environment, including the clinical and other hands-on training provided by educational institutions.

The extent to which the internship is tied to the intern’s formal education program by integrated coursework or the receipt of academic credit.

The extent to which the internship accommodates the intern’s academic commitments by corresponding to the academic calendar.

The extent to which the internship’s duration is limited to the period in which the internship provides the intern with beneficial learning.

The extent to which the intern’s work complements, rather than displaces, the work of paid employees while providing significant educational benefits to the intern.

The extent to which the intern and the employer understand that the internship is conducted without entitlement to a paid job at the conclusion of the internship.

Courts have described the “primary beneficiary test” as a flexible test, where, unlike the prior 6-factor test, no single factor is determinative. Accordingly, whether an intern is an employee under the FLSA depends on the unique circumstances of each case. If analysis of these circumstances reveals that an intern is actually an employee, then the intern is entitled to both minimum wage and overtime pay under the FLSA. However, if the analysis confirms that the intern or student is not an employee, then the intern is not entitled to either minimum wage or overtime pay under the FLSA.

Prior to employing an individual as a non-compensated “intern,” an employer should carefully review the circumstances surrounding the work, including ensuring that interns do not displace any regular employees – whether full or part time – but merely “complement” the work of paid employees. Situations should be avoided where the intern is actually providing an operational benefit to the company by replacing regular employees in their duties.

Archbright members are encouraged to contact our HR and Legal Advice team with any questions or assistance in ensuring interns are properly classified.

Source: Joy Sturgis, Senior HR Advisor at Archbright

**HR FAQ**

Question: We are updating our drug testing policies. Is there any new information we should be aware of?

Answer: Beginning January 1, 2018, in addition to the existing DOT drug testing panel (that includes marijuana, cocaine, amphetamines, phencyclidine (PCP), and opiates), the Department of Transportation (DOT)’s testing program also began testing for four semi-synthetic opioids (i.e., hydrocodone, oxycodone, hydromorphone, oxymorphone). Many DOT and non- DOT employers use the DOT testing levels for their standard testing procedures.

If your policy includes a listing of drugs and confirmatory test cutoff concentrations, you should consider updating to the new DOT levels. A full list of cutoff concentrations is available at www.transportation.gov.

A sample drug testing policy is available to Gold and Silver members on the Archbright members only website. Contact an Archbright HR Advisor if you have any questions.

**Public Sector Union Mandatory Agency Fees Unconstitutional**

On June 27, 2018, the U.S. Supreme Court ruled that union membership for public sector employees must now be voluntary and that employees who choose not to join a union can no longer be forced to pay “agency” or “fair share” fees to those unions. The laws in 22 states – including Washington and Oregon – allow for public sector union representation and agency fee arrangements. However, in the wake of Janus, public sector unions may no longer extract agency fees, including religious objector fees, from nonconsenting employees.

**What does this mean for public sector employers in Washington, Oregon, and Idaho?**

The practical result of Janus is that now, in Washington and Oregon, both mandatory union membership and mandatory union dues, as well as agency fee arrangements, are no longer allowed in the public sector. Since most CBA’s contain a mandatory membership clause, and some may also contain agency fee language, public employers will need to take steps immediately to remedy this unconstitutional arrangement.

Idaho is a “right to work” state, and as such, it prohibits any type of union membership requirement as a condition for employment. Additionally, under Idaho law, no wages may be deducted for union fees unless a signed, written authorization is provided by the employee. Because Idaho law already protects the rights of represented public employees to “opt-out” of union membership and dues, no changes are required.

Public sector employers in Washington and Oregon should:

* Review their union contracts’ union security and union dues provisions. Seek advice from Archbright counsel regarding whether those provisions need to be modified.
* If the contract requires union membership without an option for non-membership, contact the union to discuss modification of that provision and immediately stop making any deductions for agency fees or religious objector fees.
* Do not communicate directly to employees about your plans for responding to Janus; do communicate with the union.
* Be aware of ESB 6229, effective 6/7/18, which requires employers to provide the exclusive bargaining representative reasonable access to new employees of the bargaining unit to present information about the exclusive bargaining representative to the new employees.
* Consult with Archbright labor counsel regarding next steps.
* Watch for Archbright resources on this topic. If you are a public employer member and have questions about the impact of this case, please contact an Archbright attorney.

Source: Archbright Labor Attorneys

**Introducing the Denison Culture Assessment**

Have your employees expressed frustration or a feeling of powerlessness at work? Have you recently lost talented new hires to your competition? Are teams confused about where the company is headed? If so, your culture may be in trouble.

A recent article from Forbes listed the 8 warning signs:

1. Leaders delegate tasks, not results.

2. There is no consistent growth strategy.

3. There is a lack of execution on major strategic projects.

4. Leaders are unaware of their impact.

5. Employees ignore out-of-touch policies.

6. Employees are afraid of voicing their thoughts and ideas.

7. There is high employee turnover.

8. Leaders are not taking responsibility for driving the culture.

Do any of these issues sound familiar? If so, now is the time to get a clear picture of your culture’s current state (or risk intensifying the problem by pointing resources in the wrong direction).

To help members rescue a struggling culture, Archbright utilizes the Denison’s Organizational Culture Survey (DOCS). This unique employee survey evaluates the underlying cultural traits and management practices that influence business performance, including: “Between the U.S. reaching full employment, significant shifts in societal trends and priorities, and a new generation entering the workforce, HR is uniquely positioned to manage talent in a way that drives higher engagement and better business results,” said Leah Machado, Paychex senior director of HR services. “For that reason, attracting, engaging, and retaining high-quality talent is more important today than perhaps ever before.”

**Adaptability: Patterns, Trends, and Market**

“Are we listening to the marketplace?”

**Mission: Direction, Purpose, and Blueprint**

“Do we know where we are going?”

**Involvement: Commitment, Ownership, and Responsibility**

“Are our people aligned and engaged?”

**Consistency: Systems, Structures, and Processes**

“Does our system create leverage?”

The cumulative data charts your current cultural state and provides a baseline against which to measure future improvement. It serves as the foundation for an Archbright-facilitated process for bringing about real Culture Change.

Denison’s research shows that the healthier culture scores translate to higher employee engagement, enhanced customer service, increased workplace safety, and better financial performance.

To find out more, call us (206.329.1120 or 509.381.1635), or email info@archbright.com.

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**Join Archbright in the #BoldForBlood Challenge!**

The Archbright team is proud to support Bloodworks Northwest’s BOLD FOR BLOOD Challenge. The blood supply in Western Washington and Oregon is hovering at one-to two-day emergency levels, meaning there isn’t enough locally-supplied blood to support patients in need. Visit www.bloodworksnw.org/about/news/boldforblood to find out how you can help. #BoldforBlood

**Fall Protection**

Fall hazards are commonly found in almost every workplace setting.

Falls can take place during every-day activities like walking or climbing ladders, or from great heights. Falls are among the most common causes of serious work-related injuries and deaths in our state.

Regardless of the fall distance, in Washington state ALL employers have a duty to protect employees from being exposed to injuries or death while working at heights. To prevent employees from being injured from falls, employers must:

* Guard every floor hole into which a worker can accidentally walk (using a railing and toe-board or a floor-hole cover).
* Provide a guard rail and toe-board around every elevated open sided platform, floor, or runway.
* Regardless of height, if a worker can fall into or onto dangerous machines or equipment (such as a vat of chemicals or a conveyor belt) employers must provide guardrails and toe-boards to prevent workers from falling and getting injured.
* Other means of fall protection that may be required on certain jobs include safety harness and line, safety nets, stair railings, and hand rails.
* Develop and follow a written fall protection plan for worksites.

According to the Centers for Disease Control and Prevention, Workers’ Compensation and medical costs associated with occupational fall incidents have been estimated at approximately $70 billion annually in the United Sates. On top of that, there is the cost to the workplace of having fewer workers, added to by the costs of recruiting and training new employees. The low morale of seeing an injury or death to a co- worker can also drain productivity from the remaining workers.

All of these factors make even one fall from a relatively short height extremely expensive, and their prevention extremely valuable. Many countries are facing the same challenges as the United States on fall injuries in the workplace. The International Public Health community has a strong interest in developing strategies to reduce the toll of fall injuries. Falls can be prevented when workers understand proper set-up and safe use of equipment. Employers must train employees on hazard recognition and in the care and safe use of ladders, scaffolds, fall protection systems, and other equipment they’ll be using on the job.

Please join us August 16, 2018 for our monthly Safety Webinar to learn more about Fall Protection requirements. For questions or more information regarding Fall Protection policies and issues, please contact your Safety/Loss Control Consultant at 206.329.1120 or 509.381.1635.

**Monthly Safety Webinar**

Fall Protection Program

Thursday, August 16, 2018

2:15 p.m.

Falls are a consistently common and devastating source of injury to workers. This webinar will give you the information necessary to ensure that the employees at your worksite are safe while working at elevated levels.

Topics include:

* Requirements
* Fall restraint
* Fall arrest
* Fall protection work plan
* Work platforms
* Guardrails

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 us at 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.

**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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