**Archbright™**

**Insights Newsletter**

**February 2016**

Meet the Archbright Team at These Upcoming Events

February 9: We are a proud sponsor of the 2016 LWHRA Symposium at Meydenbauer Center in Bellevue. Archbright experts are speaking at the event, don’t miss their breakout sessions:

* Kellis Borek, Vice President of Legal and Labor, will present “Impact of Federal, State and Local Laws in Collective Bargaining Strategies”
* Joseph Marth, Vice President of Business Solutions, will present “Boosting Performance Through Employee Engagement”

February 18: Archbright is delighted to sponsor the monthly meeting of the Seattle Chapter of SHRM at the Tom Douglas Palace Ballroom. We hope to see you there!

February 18: Krisann Hatch, Archbright’s Regional Manager of HR Solutions, will present “Succeeding with Succession Management” at the monthly meeting of the Columbia Basin Chapter of SHRM in Pasco.

March 18: We are pleased to be the Premier Sponsor of the 2016 Washington State Employment Law & HR Conference at Meydenbauer Center in Bellevue. Please stop by our booth to give our prize wheel a spin!

We look forward to connecting with you at these terrific events in the coming weeks.

**NLRB Rules an Employer Policy Prohibiting Recording in the Workplace is a Violation of Section 8(a)(1) of the NLRA**

Whole Foods’ General Information Guide (GIG) contained two policies prohibiting employees from making audio and video recordings, as well as recordings of conversations, in the workplace without prior approval from management.

The policies applied to all areas of the workplace and to all employees and managers. The first rule prohibited the recording of company meetings without prior approval from management, and the second rule prohibited all recording in the workplace without management approval. Witnesses for Whole Foods testified that both policies were meant to encourage employees to feel comfortable engaging in open dialogue without having to worry that their conversations were being secretly recorded.

The Board was not persuaded by Whole Foods’ argument but instead found that such policies, in certain circumstances, would violate employees’ Section 7 rights to engage in concerted activity. Specifically, the Board found that the Whole Foods policies were so broad and general in nature, that employees could reasonably construe them as creating a chilling effect on their ability to exercise their Section 7 rights to discuss hours, wages, and working conditions with co-workers.

Under the Board’s ruling, employers can restrict recordings, but they have to have legitimate business reasons for doing so. While Whole Foods’ business reason of promoting open dialogue was not sufficient, there are other reasons which would likely be approved by the Board, such as, not allowing recording about confidential medical information or Employer trade secrets. Whole Foods has decided to appeal the Board’s decision to the Second Circuit, so the issue may not yet be settled. In the meantime, Employers should review their recording policies in light of the Board’s latest ruling.

**Source:** Archbright

**Health Coverage Information Reporting Deadlines Extended**

The IRS has provided transitional relief from the information reporting requirements applicable to insurers, self-insuring employers, and certain other providers of minimum essential coverage under Code Sec. 6055 and to applicable large employers under Code Sec. 6056, and has provided guidance to individual taxpayers who may be affected by the extended deadlines provided to coverage providers and applicable large employers.

The deadline for filing Form 1095-B, Health Coverage, and Form 1095-C, Employer-Provided Health Insurance Offer and Coverage has been extended from February 1, 2016 to March 31, 2016. The deadline for filing Form 1094-B, Transmittal of Health Coverage Information Returns, and Form 1094-C, Transmittal of Employer-Provided Health Insurance Offer and Coverage Information Returns, is extended from February 29, 2016 to May 31, 2016 for non-electronic filers and from March 31, 2016 to June 30, 2016 for electronic filers.

Employers and other coverage providers that fail to meet these extended due dates are subject to the penalties under Code Sec. 6722 or 6721 for failure to timely furnish and file. In view of the extensions provided, the provisions regarding automatic and permissive extensions of time for filing information returns and permissive extensions for furnishing statements will not apply to the extended due dates. However, the IRS will consider the extent to which an employer or other coverage provider files and furnishes these statements when determining whether to abate penalties for reasonable cause. It will also consider whether reasonable efforts have been made to prepare for reporting the required information and the extent to which the employer or other coverage provider is taking steps to ensure it is able to comply with these requirements for 2016.

Some individual taxpayers may be affected by the extended due date for Form 1095-C. Under Code Sec. 36B(c)(2)(C), an employee is not eligible for the premium tax credit if the employee is eligible for coverage under an employer-sponsored plan that provides minimum value and is affordable. The information provided on Form 1095- C will assist an employee in determining eligibility for the premium tax credit. Although most employees will not be affected by the extension, employees who enrolled in coverage through a Health Insurance Marketplace but did not receive a confirmation from the Marketplace that the offer of employer-sponsored coverage was not affordable could be affected if they do not receive their Forms 1095-C before they file their income tax returns.

As a result, for 2015 only, individuals who rely on other information from their employers about their coverage offers for purposes of determining eligibility for the premium tax credit need not amend their returns once they receive their Forms 1095-C or any corrected forms. Similarly, individual taxpayers may be affected by the extended due date for providers of minimum essential coverage to furnish information under Code Sec. 6055 on either Form 1095-B or Form 1095-C. Individuals generally use this information to confirm they had minimum essential coverage for purposes of Code Secs. 36B and 5000A. Because this information may also not be provided in time for these individuals to file their tax returns, these individuals may, for 2015 only, rely on other information received from their coverage providers about their coverage for purposes filing their returns and need not amend their returns once their receive a Form 1095- B or Form 1095-C or any corrections.

Source: IRS Notice 2016-4, I.R.B. 2016-3, January 19, 2016

**Ten Employment Challenges to Pay Particular Attention to in 2016**

Same-sex marriage, lesbian, gay, bisexual, and transgender (LGBT) protections, accommodating a diverse workforce, paid sick leave, workplace wearables, and independent contractor rights are among the biggest challenges facing employers in 2016, says XpertHR’s annual report on the “scariest employment issues.” Court cases, legislation, and regulatory actions have called into question the very nature of who is considered an employer and who is considered an employee as well as what rights and benefits employees should be entitled to in the workplace.

“From providing paid sick leave to extending equal rights and benefits to same-sex partners, an employer must comply with new obligations,” says Beth Zoller, Legal Editor, XpertHR. “An employer who is not prepared stands to face increased costs, including civil fines and fees, criminal penalties, administrative complaints, potential litigation, and harm to its business reputation.”

In 2015, the Equal Opportunity Commission secured $525 million for victims of discrimination in private, state, and local government, and federal workplaces. One in five small and medium-sized businesses faced employment charges with an average cost to defend of $125,000 in 2014, according to a Hiscox study.

The following are XpertHR’s top 10 challenges employers will face in 2016. These challenges are numbered by how likely it is that an employer may be affected by a particular development.

1. **Same-Sex Marriage.** The Supreme Court ruled that same- sex married couples have a constitutional right to marry and are therefore entitled to the same rights and benefits as opposite-sex married couples nationwide.
2. **Expanding Protections for LGBT Individuals.** Federal, state, and local developments continue to expand the workplace rights of lesbian, gay, bisexual, and transgender (LGBT) individuals. An employer should make sure that its workplace policies and practices are compliant.
3. **Reasonable Accommodations for an Increasingly Diverse Workplace.** As workplaces become more inclusive, an employer must ensure that its workplace policies and practices are legally compliant and provide workers with reasonable accommodations based on pregnancy, religion, disability, sexual orientation, etc.
4. **Paid Sick Leave.** In addition to President Obama’s Executive Order providing paid sick leave for federal contractors, paid sick leave laws continue to be passed on the state and local level. An employer should determine whether any of the new laws apply and ascertain whether the leave the employer is required to provide is paid or unpaid.
5. **National Labor Relations Board (NLRB) Pursuit of Workplace Policies.** Based on the National Labor Relations Board’s (NLRB) report on employer rule cases, an employer should make sure that its employee handbook policies do not infringe upon the right of employees to engage in protected concerted activity or collective action to improve their wages, hours, and working conditions. Workplace policies with respect to social media, confidentiality, investigations, and communications among other things, should be carefully drafted and avoid overly broad and ambiguous language that interferes with employee rights.
6. **Workplace Wearables.** There are risks to wearables, including employee access of inappropriate information, harassment, and invasion of privacy issues, viruses, or malware can be introduced into the employer’s private and secure network, etc. It is advisable to implement a carefully worded wearable technology policy and outline the proper and improper use of wearable technology in the workplace.
7. **Redefining and Expanding Who Is Entitled to Overtime and Raising the Minimum Wage.** The Department of Labor’s proposed regulations, if made final, would greatly increase the number of employees eligible for overtime.
8. **Providing Independent Contractors with Increased Workplace Rights.** Prudent employers should assess all independent contractor relationships and review the measures in place to reduce the risk of misclassification.
9. **Revising the Joint Employer Standard and Expanding the Pool of Employers.** An employer should closely evaluate its business relationships and contracts to assess whether they have the right to control, either directly or indirectly, the terms and conditions of a contracted employee or another business’ employee.
10. **Telecommuting and Flexible Work Arrangements.** Approximately 30 to 45 percent of the US workforce now telecommutes on some basis. If an employer chooses to allow employees to telecommute or enter flexible working arrangements, it should be sure to maintain a firm policy that clearly sets forth guidelines.

**Honorable Mention: Health Care Reform.** Applicable large employers (ALEs) are required to report the terms and conditions of the health care coverage they provide or they could be liable for a total penalty of $3 million in a calendar year.

“To best protect themselves and avoid expensive lawsuits, employers should review and revise their workplace policies and practices and make sure that they are legally compliant,” says Zoller. “Employers should plan for a myriad of new laws and emerging trends that will impact the workplace, the bottom line, and business operations in 2016.”

**Source:** XpertHR/CCH

**Instructor Spotlight: Kathy Iverson, HR Consultant**

Kathy has spent nearly 20 years recruiting talented staff, organizing HR systems, writing job descriptions, coaching supervisors on performance management, and bringing companies into legal compliance.

Kathy has been with Archbright for 12 years as an HR Consultant and has recently expanded her role to include teaching with our Learning and Development team, combining her passion for all things HR with her enjoyment in educating employees. Her loves outside work include the Mariners, the Seahawks, coffee, coordinating weddings, and, most importantly, time with family and friends.

**Workplace Harassment Awareness Training**

Workplace Harassment Awareness is one class that our featured instructor, Kathy Iverson, teaches. Kathy says, “There are two main reasons I love teaching Harassment Awareness. First, I like the chance to open people’s eyes to how the things they say or do could be offending others. Secondly, the course can give employees the little nudge they need to stand up for themselves or others.”

Increasing employees’ understanding of offensive behaviors and giving them a clear path for resolution are two important aspects of Archbright’s harassment prevention class. In addition, this course encourages mutual understanding, sensitivity, and respect among employees, while limiting the potential for expensive charges of discrimination or harassment.

This class is available onsite or online in our eLearning format. Please call 206.329.1120, 509.381.1635, or visit archbright.com for more information.

**Upcoming First Aid/CPR/AED Classes**

**Full Certification 8:00-3:30**

February 18 - Seattle

February 25 - Kent

March 21 – Seattle

March 28 - Kent

**Recertification 8:00-12:30**

February 19 - Seattle

February 26 - Kent

March 22 - Seattle

March 29 - Kent

Supervisory Skills 9:00-4:00

February 1 - Seattle: Supervisory Skills - Session 2

February 8 - Seattle: Supervisory Skills - Session 3

February 9 - Spokane: Supervisory Skills - Session 1

February 10 - Kent: Supervisory Skills - Session 1

February 10 - Spokane: Supervisory Skills - Session 2

February 11 - Spokane: Supervisory Skills - Session 3

February 17 - Kent: Supervisory Skills - Session 2

February 22 - Seattle: Supervisory Skills - Session 1

February 24 - Kent: Supervisory Skills - Session 3

February 29 - Seattle: Supervisory Skills - Session 2

March 3 - Kent: Supervisory Skills - Session 1

March 7 - Seattle: Supervisory Skills - Session 3

March 10 - Kent: Supervisory Skills - Session 2

March 16 - Seattle: Supervisory Skills - Session 1

March 17 - Kent: Supervisory Skills - Session 3

March 23 - Seattle: Supervisory Skills - Session 2

March 30 - Seattle: Supervisory Skills - Session 3

Leadworker Effectiveness (8:00 – 4:00)

February 10 - Seattle

February 23 - Kent

March 8 - Seattle

March 16 – Kent

**Time Management 8:30-12:00**

February 3 - Seattle

February 17 – Kent

March 2 - Seattle

**Building Interpersonal Awareness 8:30-12:00**

February 12 - Seattle

February 23 - Kent

March 9 - Seattle

March 17 - Kent

**Project Management**

February 11 - Seattle: Project Management 8:30-4:30

March 10 - Seattle: Project Management 8:30-4:30

March 10 - Spokane: Project Management 9:00-5:00

**FREE COURSES!**

February 25 - Seattle: Developing Your Company's Training Plan 8:30-12:00

March 18 - Kent: Developing Your Company's Training Plan 8:30-12:00

Other Classes

February 8 - Kent: Understanding Legal Issues for Supervisors and Managers 8:30-12:00

February 11 - Kent: Holding Others Accountable for Great Performance 8:30-12:30

February 5 - Seattle: Change Management 8:30-12:00

February 18 - Kent: Managing FMLA 9:00-12:00

February 23 - Seattle: Managing the Millennial Employee 8:30-12:00

March 8 - Kent: Writing and Delivering Performance Reviews 8:30-12:00

March 8 - Kent: Discipline and Documentation 1:00-4:30

March 10 - Kent: Managing the Bermuda Triangle of Leave Laws 9:00-12:00

March 15 - Seattle: Hiring Winners 8:30-4:30

March 5 - Seattle: Emotional Intelligence: Effective Communication and Influence 8:30-4:30

March 22 - Spokane: HR Fundamentals - Session 1 9:00-5:00

March 23 - Spokane: HR Fundamentals - Session 2 9:00-5:00

March 24 - Seattle: Conflict to Collaboration 8:30-12:00

March 24 - Kent: HR Fundamentals - Session 1 8:30-4:30

March 25 - Kent: HR Fundamentals - Session 2 8:30-4:30

March 25 - Kent: HR Records: How, What, Where, When, Why 1:00-4:00

March 31 - Seattle: Maximizing Your HR Value: An Introduction to Metrics 9:00-12:00

March 31 - Kent: Setting Goals 1:00-4:00

February 9 - Kent: Dealing with Hazardous Waste 8:00-4:00

March 9 - Kent: Forklift Train-the-Trainer 9:00-15:00

March 15 - Kent: Shipping Hazardous Materials 8:00-4:30

March 15 - Kent: Shipping Hazardous Materials Update 11:30-4:30

**Ask More, Tell Less - Engage!**

Do you ever ask your team for their input and suggestions, yet get nothing? In spite of your best intentions, it could have something to do with how you model openness. When an idea, solution, or even complaint comes to you, how curious are you to learn more, to unpack the comment?

We live in a culture of “tell” where we are valued for our expertise. To know is king, so we tend to direct others, give advice, and explain things. The problem with too much telling is that it implies that the other person doesn’t know— or ought to— and can be perceived as a put down, often causing the receiver to feel impatient and frustrated, or completely disengaged.

As our organizations grow more complex, learning necessarily becomes omnidirectional and we must learn from one another, regardless of organizational role. As leaders we may feel we don’t have the time to fully explore the assumptions, ideas, and beliefs that have led our team members to do what they do. In the long run, though, it’s far more efficient to coach than tell, and the secret is in how we ask the questions that lead to development and ultimately, to engagement.

So check your questions; are they really advice in disguise, such as: *“Have you tried calling the client instead of only emailing him?”* Why not ask instead, *“If you were in your client’s shoes, what might he be expecting?”*

In his book, *Humble Inquiry, The Gentle Art of Asking Instead of Telling*, Edgar Schein describes humble inquiry as *“the fine art of drawing someone out, of asking questions to which you do not already know the answer, of building a relationship based on curiosity and interest in the other person.”*

It’s through the asking of questions that relationships are built that empower others to take on challenges, face obstacles, and develop strategies that work for them. Empowerment builds the trust that’s the foundation of strong teams and organizations.

To encourage team members to speak up and share those things we might not like to hear but need to know, we must change the questions. We must be curious.

The next time the team member you most dread comes to talk with you, take a deep breath and try this:

Ask yourself, what can I learn from her?

Ask her with genuine interest, “How is it going?”

Then with your full attention, listen to what she is saying and notice her body language. If you are truly listening with a curious mindset, you will know what questions to ask next.

With practice, you will find that it gets easier for people to share useful, important information because they feel you care. You will teach them through your behaviors. Then, when you do ask for their input, they’ll have plenty to say.

How will you apply genuine curiosity to your next encounter?

**Source:** Rose Singer, Sr. Learning & Organization Development Consultant at Archbright

**Upcoming Webinar: FLSA Proposed Exemption Changes—What Every Employer Needs to Know Now**

Archbright Attorney Kara Craig will present “FLSA Proposed Exemption Changes—What Every Employer Needs to Know Now” in the February installment of the popular HR HotSpot webinar series hosted by Archbright member Terra Staffing Group.

**When:** February 12 | **Time:** 10:00 AM - 11:00 AM PST

If you were unable to attend one of our recent CoffeeTalks covering the proposed changes to FLSA exemptions, this webinar is another way to learn more about the steps you can take now before the final rules are issued.

Registration is now open online at terrastaffinggroup.com/resources/hr-hot-spot. Reserve your seat today!

New CPR Guidelines

Approximately every five years the American Heart Association (AHA), in coordination with the International Liaison Committee on Resuscitation (ILCOR) issue updated guidelines for cardiopulmonary resuscitation (CPR) and emergency cardiac care. The 2015 guidelines were released October 15, 2015. The most interesting update in the 2015 guidelines over the 2010 CPR guidelines is the focus on using smartphone apps. The authorities are singing the praises of various apps intended to summon help and to coach the rescuer on proper technique. Other changes include speed and depth of compression revisions although the AHA is still emphasizing that something is better than nothing and is encouraging all rescuers to call 911 and start doing chest compressions until more advanced help can arrive.

Archbright’s First Aid/CPR Instructor will be teaching to the new standards in 2016. All participants will receive a certificate of completion card once they have successfully completed the course which is good for two years and meets State and Federal requirements for First Aid training. To learn more about scheduling a class, please call 206.329.1120 or email info@archbright.com.

**AED Programs Improve Survival**

Each year in the U.S., there are approximately 359,400 Emergency Medical Services (EMS)-assessed cardiac arrests outside of a hospital setting and on average, less than 10% of victims survive. Cardic arrest affects people of all ages. Immediate CPR and early defibrillation with an automated external defibrillator (AED),

can more than double a victim’s chance of survival. In fact, early defibrillation, along with CPR, is the only way to restore the victim’s heart rhythm to normal in a lot of cardiac arrest cases. For every minute that passes however, the chance of survival decreases by about 10%.

According to the AHA, communities with comprehensive AED programs that include CPR and AED training for rescuers have achieved survival rates of nearly 40% for cardiac arrest victims. Research is showing the quicker a rescuer has access to an AED, the higher the chance of survival. A study of cardiac arrest in casinos showed that AED use provided by a trained security guard within the first 3 minutes to a cardiac arrest victim produced a 74% survival rate. Some research is also showing that if the first shock can be delivered in the first 2-3 minutes of cardiac arrest, the victim can have up to a 92% chance of survival. Unfortunately EMS cannot arrive on scene and shock that quickly. The bottom line is the sooner defibrillation is started, the more likely the victim will survive.

Monthly Safety Webinar
February 2016

Archbright’s 8 Elements of an Effective Safety Program

Thursday, February 18th 2:15 p.m.

Elements of an Effective Safety Program

Introduction to 8 Elements of Safety

This Months’ topics include:

* Introduction
* Concepts and deliverables of each element
* Suggestions to get the most out of the series
* Guides and checklists
* Identifying priorities and tracking success

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

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

**Did You Know?**

Here are 7 interesting safety facts that you may want to share with your Safety Committee:

* Overexertion accounts for 25% of all workplace injuries
* Scaffolding, Fall Protection violations are the #1 citation
* Nearly 75% of illicit drug users are employed
* Hazardous substances cause 10% of skin cancers
* Workplace safety programs decrease injuries by 50%
* 6,000 people die a day from workplace injury
* Workplace injury and illness is more costly than all cancers combined

**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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