**Archbright™**

**Insights Newsletter**

**October 2015**

**Join Us for The Annual Workplace Performance Symposium**

We are happy to announce our Annual Workplace Performance Symposium will be held on Tuesday, October 20th from 9AM to 12PM at Billy Baroo’s in Tukwila. Join us to hear Archbright™ experts cover best practices, hot topics, and emerging trends currently impacting HR professionals.

Presentations include:

* **Love ‘Em or Lose ‘Em: Measuring Employee Engagement**  
  Presented by Joseph Marth, PhD, Vice President of Business Solutions
* **Finders Keepers: Recruiting for Success**  
  Presented by Whittney Dideon, Director, HR Systems & Services
* **HR Undercover: Things to Avoid When Investigating Complaints**  
  Presented by Jo Powers, Director, HR Strategies & Practices
* **The Union Is Coming! Five Things You Need to Know**  
  Presented by Mara Vinnedge, Senior Labor Counsel
* **Will You Lead or Will They Leave? Leadership’s Role In Engagement**  
  Presented by Susan Brandt, Director, HR Solutions
* **Money Matter$**  
  Presented by Krisann Hatch, Regional Manager, HR Solutions
* **Unlimited PTO? Are You Crazy?**Presented by Jo Powers, Director, HR Strategies & Practices
* **Bye-Bye Boomers: Succeeding with Succession Management**  
  Presented by Susan Brandt, Director, HR Solutions
* **RIP: The Death of the Traditional Performance Review**

Presented by Joseph Marth, PhD, Vice President of Business Solutions

“We are excited about this opportunity to share our experts’ insights on topics that help Washington State companies maintain compliance with the hundreds of local, state, and federal employment laws, while building an engaged workforce to impact business results,” said Archbright President and CEO Craig Nelson.

Registration for the Workplace Performance Symposium is now open at archbright.com/ event/Symposium2015.

**BMW to Pay $1.6M, Offer Jobs to Settle Background Check Suit**

BMW Manufacturing Co will pay $1.6 million and provide job offers to alleged victims of race discrimination to resolve an EEOC suit contending that the automaker unlawfully excluded African-American logistics workers from employment at a disproportionate rate when the company’s new logistics contractor applied BMW’s criminal conviction records guidelines to incumbent employees.

BMW brought in a new contractor in 2008 to handle logistics at its production facility in Spartanburg, South Carolina. BMW required the new contractor to perform a criminal background screen on all existing logistics employees who reapplied to continue working in their positions at BMW under the new contractor. At that time, BMW’s criminal conviction records guidelines excluded from employment all persons with convictions in certain categories of crime, regardless of how long ago the employee had been convicted or whether the conviction was for a misdemeanor or felony.

Approximately 100 incumbent logistics workers at the facility, including employees who had worked there for several years, did not pass the screen—80 percent of whom were black. Following an investigation, the EEOC filed suit alleging that African-Americans were disproportionately disqualified from employment as a result of the criminal conviction records guidelines. EEOC sought relief for 56 employees who were discharged.

The company will pay $1.6 million to resolve the litigation and two pending EEOC charges related to its previous criminal conviction records guidelines. In addition to monetary relief, BMW will offer employment opportunities to the discharged workers and up to 90 African-American applicants whom BMW’s contractor refused to hire based on BMW’s previous conviction records guidelines. BMW also will provide training on the use of criminal history screening in a manner consistent with Title VII.

“EEOC has been clear that while a company may choose to use criminal history as a screening device in employment, Title VII requires that when a criminal background screen results in the disproportionate exclusion of African-Americans from job opportunities, the employer must evaluate whether the policy is job related and consistent with a business necessity,” said P. David Lopez, EEOC’s General Counsel.

The EEOC issued its first written policy guidance regarding the use of arrest and conviction records in employment in the 1980s. The Commission updated its guidance in 2012. This is one of the first cases involving the use of arrest and conviction records that EEOC has filed since the Commission issued the updated guidance.

**Source:** CCH

**Minimum Hourly Wage for Federal Contract Workers Will Increase to $10.15**

The DOL’s Wage and Hour Division has given notice that the minimum wage rate that generally must be paid to workers performing work on or in connection with federal contracts covered by Executive Order 13658 will increase to $10.15 an hour beginning January 1, 2016.

**The Equal Employment Opportunity Commission Goes Electronic**

The Equal Employment Opportunity Commission (EEOC) has begun rolling out a Digital Pilot Program, which allows employers to receive and respond to Charges of Discrimination electronically. This Pilot Program is the first phase of the EEOC’s long-term plan to transition to an entirely electronic system.

The EEOC is the federal agency responsible for enforcing federal employment discrimination laws, such as the Title VII of the Civil Rights Act of 1964 and Americans with Disabilities Act. The EEOC has 53 offices throughout the United States. Each office accepts and investigates Charges of Discrimination filed by employees or former employees against employers.

Phase I of the Digital Pilot Program enables limited electronic communication between the employer and EEOC investigator. Through the Digital Pilot Program, employers will be able to: 1) view and download the Charge of Discrimination; 2) review and respond to an invitation to mediate; 3) respond to a Request for Information and submit a Position Statement, and 4) engage in other limited correspondence related to the investigation. The EEOC expects to be using the system in all of its offices by October 2015.

The new system initially causes concern because employers may not be sure exactly to whom the EEOC will email a Notice of Charge. The EEOC will electronically serve documents only if it has an email address on file from past communications. Currently, there is no way for an employer to set up an account and provide the EEOC a designated email address for notices.

Under the Pilot Program, an electronic Notice of Charge will include an https://link, Charge number and login information to allow the employer access to the Respondent Portal.

A Notice of Charge is usually accompanied by a Request for Information with a tight deadline of approximately 30 days from receipt. The EEOC sets a shorter timeframe in which to respond to the invitation to mediate.

Recognizing that emails may get “lost,” the EEOC has created a safe harbor. If an employer is emailed a Notice of Charge, but does not access the Respondent Portal within 10 days, the EEOC will send a paper notice through the mail. This will extend the time an employer has to respond to the Charge.

Employers are not currently required to use the electronic system and can choose to submit and receive all communications and documents via mail.

Phase I of the Pilot Program has limited capabilities and scope. Employees or former employees who wish to file discrimination charges cannot do so electronically or access the electronic system in any way. Nor can employers use the system for any purposes other than those listed above. For example, employers must still file a written request for an extension through regular mail or by fax.

As the Digital Pilot Program gets underway, employers should instruct all supervisors and managers to immediately notify Human Resources if they receive notice of a Charge of Discrimination, via email or by regular mail. To ensure legal compliance and consistency, only Human Resources should be managing EEOC matters with the assistance of legal counsel. For additional information, see the EEOC’s User’s Guide at http://www.eeoc.gov/employers/respondent\_portal\_ users\_guide.cfm.

**Source:** Archbright

The deadline for filing this year’s EEO-1 Report has been extended to October 30, 2015. Private employers with 100 or more employees and federal contractors with 50 or more employees and contracts, amounting to $50,000 or more, must file the EEO-1 Report.

There is no extension for the VETS-4212 reporting deadline. The VETS-4212 Report remains due September 30, 2015.

**Instructor Spotlight: Barbara Deane**

Barbara Deane began her diversity training career in 1987 when a university department decided to train its faculty, staff, and students after a racial incident. Her curiosity about that process resulted in the launch of an international newsletter about cultural diversity in the workplace and organizational responses to it. Today, she trains, writes, and consults on Cultural Diversity & Inclusion. She lives her passion by traveling, most recently to 5 countries in Europe and North Africa.

**New Class: Diversity and Inclusion in the Workplace Taught by Barbara Deane**

This session focuses on understanding what diversity is and how organizations can embrace and benefit from that diversity (“inclusion”). Employees, managers, and leaders will have the opportunity to learn and practice communication techniques that allow people to experience inclusion in the workplace, as well as how to develop inclusive work climates.

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

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

October 22 - Kent

October 29 - Seattle

November 17 - Kent

November 23 - Seattle

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

October 23 - Kent

October 30 - Seattle

November 18 - Kent

November 24 - Seattle

Supervisory Skills

October 1 - Kent: Supervisory Skills - Session

October 7 - Kent: Supervisory Skills - Session 1

October 8 - Kent: Supervisory Skills - Session 3

October 14 - Kent: Supervisory Skills - Session 2

October 15 - Spokane: Supervisory Skills - Session 1

October 19 - Seattle: Supervisory Skills - Session 1

October 20 - Seattle: Supervisory Skills - Session 2

October 21 - Kent: Supervisory Skills - Session 3

October 21 - Seattle: Supervisory Skills - Session 3

October 22 - Spokane: Supervisory Skills - Session 2

October 29 - Spokane: Supervisory Skills - Session 3

November 3 - Kent: Supervisory Skills - Session 1

November 4 - Kent: Supervisory Skills - Session 2

November 5 - Seattle: Supervisory Skills - Session 1

November 5 - Kent: Supervisory Skills - Session 3

November 12 - Seattle: Supervisory Skills - Session 2

November 19 - Seattle: Supervisory Skills - Session 3

Microsoft Office (8:00 – 4:00)

October 12 - TLG Tacoma: Microsoft Office Mentor Led (2010, 2013/Office 365) - Session 1

October 13 - TLG Tacoma: Microsoft Office Mentor Led (2010, 2013/Office 365) - Session 2

October 14 - TLG Bellevue: Microsoft Excel Instructor Led - Level 2 (2010, 2013/Office 365)

October 20 - TLG Seattle: Microsoft Excel Instructor Led Level 1 (2010, 2013/Office 365)

October 26 - TLG Seattle: Microsoft Office Mentor Led (2010, 2013/Office 365) - Session 1

October 27 - TLG Seattle: Microsoft Office Mentor Led (2010, 2013/Office 365) - Session 2

October 28 - TLG Bellevue: Microsoft Excel Instructor Led - Level 3 (2010, 2013/Office 365)

November 9 - TLG Seattle: Microsoft Excel Instructor Led - Level 2 (2010, 2013/Office 365)

November 18 - TLG Bellevue: Microsoft Excel Instructor Led Level 1 (2010, 2013/Office 365)

November 30 - TLG Bellevue: Microsoft Office Mentor Led (2010, 2013/Office 365) - Session 1

Leadworker Effectiveness (8:00 – 4:00)

October 1 - Seattle: Leadworker Effectiveness

October 22 - Kent: Leadworker Effectiveness

November 19 - Kent: Leadworker Effectiveness

**FREE COURSES!**

October 15 - Kent: Developing Your Company's Training Plan 1:00-4:30

October 20 - Tukwila: Workplace Performance Symposium 9:00-12:00

November 3 - Seattle: Developing Your Company's Training Plan 1:00-4:30

Other Classes

October 2 - Kent: Coaching for Success 8:30-12:00

October 6 - Kent: Hiring Winners 8:30-4:30

October 6 - Seattle: Project Management 8:30-4:30

October 8 - Kent: Conducting Effective Internal Investigations 8:30-12:00

October 9 - Seattle: Writing and Delivering Performance Reviews 8:30-12:00

October 13 - Kent: Crucial Conversations™ - Session 1 8:00-5:00

October 15 - Kent: Communicating for Success 8:30-12:00

October 15 - Seattle: Diversity and Inclusion in the Workplace 1:00-5:00

October 15 - Seattle: Employment Law Landmines 9:00-12:00

October 16 - Kent: Building Interpersonal Awareness 8:30-12:00

October 20 - Kent: Crucial Conversations™ - Session 2 8:00-5:00

October 22 - Seattle: Communicating for Success 8:30-12:00

October 23 - Seattle: Dealing with Hazardous Waste 8:00-4:00

October 29 - Kent: Time Management 8:30-12:00

November 3 - NWDLS Session 6: Time to “Woman Up”: Leading the Paradigm Shift to Gender Equity in the Workplace 8:30-12:00

November 3 - Seattle: Understanding Wage and Hour Law 9:00-12:00

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

November 4 - Kent: Change Management 1:00-4:30

November 10 - Seattle: Feedback for Success 8:30-12:00

November 10 - Kent: Project Management 8:30-4:30

November 10 - Seattle: Discipline and Documentation 1:00-4:30

November 10 - Kent: Time Management 1:00-4:30

November 12 - Kent: Communicating for Success 8:30-12:00

November 12 - Kent: Building Interpersonal Awareness 1:00-4:30

November 17 - Kent: 5 Star Service: Every Customer, Every Time 8:30-3:30

November 17 - Seattle: Time Management 8:30-12:00

November 18 - Kent: Conflict to Collaboration 8:30-12:00

November 18 - Seattle: Managing FMLA 9:00-12:00

November 20 - Seattle: Shipping Hazardous Materials 8:00-4:30

November 20 - Seattle: Shipping Hazardous Materials Update 11:30-4:30

**You Asked and They Told You… Now What?**

When you survey your employees to discover how satisfied they are with their jobs and how engaged they feel in their work and with the company, it’s a big undertaking. Thoughtful decisions need to be made about how to group the employees so the data is as useful as possible without compromising the anonymity of the individuals in any particular group. Logistical considerations come into play as you determine whether to go with all web-based surveys or if paper surveys will better serve certain groups. Will you use a proctor from outside the company to emphasize the integrity of the process? Will you schedule a specific date/time for employees to take the survey, to highlight the importance you place on hearing what they have to say? And most critical of all, have you anticipated how you’ll address the expectation you’ve now raised that something’s going to be done about the information that comes back?

**Following up on Employee Surveys needs to begin before the survey goes out.**

Since the act of asking creates a sense of expectation, don’t hold people in suspense – or worse, allow them to infer their own version of what’s going to happen. Be clear from the beginning by letting people know why you’re conducting the survey and what you hope to accomplish. Help them feel safe by describing the steps you’re taking to assure participant anonymity. Give them a general timeline for survey administration, analysis of the data, solution development, and action planning. Tell them how much you appreciate their honesty and willingness to work toward improving their workplace.

When you get the survey results, review them at a high level then set them aside for a day or two to let any emotional reaction settle. When you’re ready, take a longer look and really study the results. What common ideas stand out? Do certain themes emerge? Take notes as you read and avoid coming to conclusions or jumping to “obvious” solutions – stay curious. To maintain a healthy perspective, it may even help to imagine you’re viewing results from a company you don’t even know. What overall impression do you get? Is it a place you’d want to work? What seem to be the greatest strengths of that company? What opportunities come across as most pressing? Select the 3 highest priority areas for immediate attention, and rank order the remaining items.

Carefully evaluate the level of results detail to share with the rest of the organization. Above all, honor the anonymity of the verbatim comments. These should only be shared with the most senior members of leadership. While almost irresistibly tempting, guessing about who said what is often off point and misleading. You’d be surprised at how often the guesses are wrong! Just be thankful for the feedback. And strongly remind everyone that any form of retaliatory response to survey results will send your satisfaction and engagement ratings plummeting the next time you survey.

Finally, create a plan for disseminating the survey results to the rest of the organization. Whenever possible, involve your employees in creative problem solving and action planning to address the issues raised in your survey. The odds of success are significantly increased when everyone with an interest in the problem owns their part of accountability for the solution.

**Source:** Archbright

**Time to “Woman Up”: Leading the Paradigm Shift to Gender Equity in the Workplace**

Please join us for Session 6 on November 3

Bridge the divides of unconscious gender bias as part of your transformational leadership style! Research suggests the under-representation of women in leadership roles is a moral and business imperative. This session calls on women—and men—to embrace, practice, and adopt a paradigm shift that values and rewards leadership behaviors typically viewed as “feminine.” This transformational leadership style promotes inclusivity, supports positive organizational and societal change, and facilitates the advancement of women in leadership roles.

This session is at Nordstrom’s Corporate HQ, Seattle from 8:30am to Noon. For more information, or to register, visit Archbright.com.

Conducting Workplace Inspections

Inspecting your workplace can help prevent injuries and incidents. By examining each area of the workplace, inspections can help us identify and record hazards that need correcting.

Safety committees can help plan, conduct, report, and monitor inspections. Regular workplace inspections should be an important part of the overall health and safety program in your workplace.

Workplace inspections are important because they allow you to:

* Listen to and address safety concerns
* Understand safety aspects of jobs and tasks
* Identify existing and potential hazards
* Determine causes of hazards and risk
* Monitor hazard controls (personal protective equipment, engineering controls such as guarding, policies, procedures)
* Recommend corrective action

Every inspection must examine who, what, where, when, and how. Pay attention to items most likely to develop unsafe, risky, or unhealthy conditions because of stress, wear, impact, vibration, heat, corrosion, chemical reaction, or misuse. Inspect the entire workplace area each time. Include areas where no work is done regularly, such as parking lots, break rooms, and storage areas.

Look at all of the workplace elements - the environmental conditions, the equipment, and the process. The environment includes such hazards as noise, vibration, lighting, temperature, and ventilation. Equipment includes materials, tools, and apparatus for producing a product or providing a service. The process involves analyzing how the worker interacts with these elements.

How often inspections are performed depends on several factors:

* The frequency of inspections may be outlined in your workplace policy
* Past accidents/incidents
* Number and size of different work areas
* Types of equipment and processes
* Number of shifts
* Any new processes or machinery

High hazard or high risk areas should receive extra attention or potentially more frequent inspections.

For questions or more information regarding Conducting Workplace Inspections policies and issues, please contact your Safety & Loss Control Representative at 206.329.1120.

Monthly Safety Webinar  
OCTOBER 2015  
Inspections Thursday, October 15th  
2:15 p.m.

An inspection is a systematic review of your facility, equipment, processes, or staff. This webinar will cover the different types of inspections that each company should be performing to ensure a safe working environment.

Topics include:

* Requirements
* Types of Inspections
* Safety Observations
* Roles and Responsibilities
* Frequency of Inspections

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.

“Safety might not always be common, but it always makes sense.”

**Did You Know?**

As required by law, DOSH conducts inspections without advance notice and in the following order of priority:

1. “Imminent danger” situations, where death or serious physical injury could happen immediately.
2. Workplace fatalities and hospitalizations.
3. Complaints and referrals concerning potentially hazardous conditions.
4. Follow-up or monitoring inspections.
5. Scheduled inspections. DOSH uses objective factors such as claim history, injury/illness rates, and the safety performance of industries to plan scheduled or “routine” inspections. A special emphasis program focusing on a high-hazard industry may also be established within the state or required nationwide by the federal Occupational Safety and Health Administration.

**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.

Insights is published monthly for its member companies by Archbright™, founded in 1936. Items in Insights are for information only and not intended to render legal advice. Material contained herein may not be reprinted without the permission of Archbright.

We welcome your comments and suggestions.

Email: editor@archbright.com | Seattle Office: P.O. Box 12068; Seattle, WA 98102

Phone: 206.329.1120 | Web: www.archbright.com