**Archbright™**

**Insights Newsletter**

**August 2021**

**New to Video Training Library: Workplace Harassment Awareness**

Workplace Harassment Awareness is one of our most popular Archbright University courses. Especially in today’s business climate, it is essential for employers to take proactive steps to prevent workplace harassment and know what to do in the case it arises.

We are excited to add our on-demand Workplace Harassment Awareness training course to the mozzo Video Training Library!

This animated video training is a streamlined version of our Archbright University course, but includes all the same information and gives you more flexibility:

* No need to schedule all employees for in-person training. They can complete the course at a time convenient with their schedule.
* The training is an effective option for learners who may struggle to sit in a classroom setting for long periods of time.

Participants will need to have a mozzo learner seat in order to view the training. If you need to purchase additional learner seats, please reach out to your Account Executive or email us at info@archbright.com.

mozzo learner seats also provide access to all Video Training Library resources, which include additional on-demand trainings to help strengthen skills and include microlearnings on communication, management, safety, human resources, and more. You can assign trainings and track learner completion of trainings within mozzo, too.

Questions about Workplace Harassment Awareness or mozzo? Contact us at 206.329.1120, 509.381.1635.

**HR Leadership 2021 Conference—Making Work Human**

I am so very pleased to invite you to this year’s HR Leadership 2021 Conference – Making Work Human on September 17 from 9:00 AM to 1:00 PM. You don’t want to miss it!

It is a huge understatement to say the 2020 pandemic presented new challenges to employers. The rapid move to WFH, accelerated technology dependency, and new laws to manage added pressure on you and your teams to remain ‘connected’. As we emerge from this time that has forever changed us and face “The Great Resignation”, it has never been more important to focus on making work human! To help HR and business leaders rethink their approach, we’ve brought together a lineup of presenters that will inspire and guide you.

This half-day, virtual conference features the following can’t miss speakers:

* Derek Irvine­—Senior Vice President of Workhuman and co-author of “Making Work Human”  
  *How Human-Centered Companies Are Changing The Future*
* Seth Mattison—Founder & CEO of FutureSight Labs  
  *The Emerging Future: Building Future-Ready Organizations and High-Performing Cultures to Compete and Win in The Decade Ahead*
* Alison Levine—Leadership Expert & Polar Explorer & Mountaineer  
  *On the Edge: The Art of High-Impact Leadership*

This conference has been approved for three Business Recertification Credits towards any of HRCI’s eight credentials, including SPHR® and PHR®.

Register today to get your seat (or an unlimited group seat), which also comes with access to the recordings post-conference!

Get the early bird rate by registering with your Archbright discount code of Archbright2021 before August 7.

**Register for NHRMA**

The NHRMA 2021 Conference & Tradeshow is back to being hosted in-person\*. Archbright is once again a proud sponsor! Learn and network with fellow HR professionals at this exciting and informative event that brings together professionals from Washington, Oregon, and Alaska.

Register before August 27, 2021 to get a discounted rate and make sure to visit our booth!

*\* NHRMA may move to a virtual conference format should the COVID-19 pandemic prohibit NHRMA’s ability to hold an in-person conference safely. All registrants will be notified as soon as any change in status is confirmed.*

**Be a Part of the mozzo Community**

We’re excited to see more members post questions and engage with one another through Community. The forum is designed to be a resource for you to gather input from other Archbright members, share best practices, and learn together. If you’re asking the question, chances are someone else is wondering too! We encourage you to continue interacting—posting questions, responding to threads, and liking posts. And hopefully you’ll find it helps you connect with other HR professionals and expand your professional network along the way!

**September Session of the Northwest Diversity Learning Series: Walking the Equity Talk: Development & Advancement**

September 29, 2021 - 9:00am to 11:00am (PDT)

Both managers and employees come together in this session to practice negotiation and communication skills, to improve their skills in the development and advancement of diverse employees. Managers will be invited to share their circumstances and realities, and employees will be invited to share their lived experiences, their challenges. Learn first-hand from fellow participant’s   
real-life experiences.

This session seeks to supply participants with ideas and strategies to achieve better outcomes for developing and advancing diverse workforces.

Register at: https://www.i4sdi.org/session-5-sept-29

Archbright is a proud sponsor of the Northwest Diversity Learning Series, currently celebrating its 23rd year providing relevant, substantive, though-leading, and cost-effective educational programming on diversity equity, and inclusion (DEI) for managers, and employees in the Puget Sound Region.

**Considerations for Employers: Remote Workers in Other States**

The COVID-19 pandemic was an unexpected introduction to remote work for many employees. Now that the door to remote work is open, it may be difficult for employers to close it. Employees have made their desires clear: Remote work is here to stay, at least as far as opinion surveys go! For the past year and a half, employees have realized the benefits of remote work which includes no longer having to commute to the office. This has resulted in some employees moving out of state and continuing to work there. While employers are not required to allow employees to work remotely from another state, before approving or denying this arrangement, there are a few things they should consider to avoid losing valuable talent.

**Initial Set Up**

Employment laws typically apply to the state in which the employee performs work, so when employees move out of state, as do the compliance concerns governing them. Employers must decide which, if any, out-of-state jurisdictions they will permit employees to live and work. Many states require businesses to register which typically entails setting up an employer tax identification number and paying a fee.

Additionally, employers should identify possible wage and hour considerations in that state, such as overtime requirements, meal and rest period requirements, and different salary thresholds for exempt employees.

**Benefits and Payroll**

Benefits plans may also need to change to accommodate out of state employees. Not all insurance policies operate in all fifty states, so employers should contact their broker to seek advice. Workers’ compensation in North Dakota, Ohio, Washington, and Wyoming are solely offered through the state, but all other states allow private insurers to offer workers’ compensation. In addition, some states and even local jurisdictions mandate paid sick leave and paid family/medical leave.

Employers may assume a remote worker will no longer meet the Family and Medical Leave Act (FMLA) eligibility criteria if they’re further than 75 miles from the nearest site where 50 or more employees work. However, the regulations require the employer to count the site to which the employee reports as the work location and not the employee’s home office. In other words, remote workers may remain eligible for FMLA leave even if they’re all alone.

In terms of payroll, employers should first ensure their payroll provider can operate in the state in question. Other payroll considerations include state regulations on direct deposit and pay period frequencies.

**Productivity and Work Availability**

Managers should also plan how they will monitor a remote employee’s work to verify productivity and time spent working. This is not only to ensure appropriate work output, but also to prevent wage and hour claims such an unpaid overtime. Employers have a legal obligation to pay non-exempt employees for all hours worked, and if employees are not accurately logging their time, that can be difficult to track in a virtual environment.

Exempt employees and their availability for work can also present special considerations. Employers may require exempt employees to make themselves available during specific hours, even if they’re living in different time zones or frequently working outside regular business hours. It is the employers’ responsibility to communicate the minimum times employees should be available and advise employees to use paid leave if they are unavailable during those times.

**Compensation**

In recent years, pay equity has come under scrutiny with federal and state laws. At the same time, employees are citing lower living costs as reasons to flee expensive metropolitan areas. The question becomes: Must employers continue to pay wages and salaries built around higher living costs to ensure equitable pay? Or can employers adjust compensation with geographic differentials?

The short answer is yes, most state laws permit employers to account for such disparities in the cost of living. But company leaders should remain conscious of employee engagement issues before taking action. An increasing number of states permit employees to discuss wages with each other—and all employers subject to the federal National Labor Relations Act must permit nonsupervisory employees to share wage information. Therefore, employers who enact a geographic pay differential should never forbid employees from discussing wages. Instead, HR leaders may develop a proactive communication plan and use current, relevant statistical data to determine the pay differentials.

**Safety**

While home offices are generally of little interest to the Occupational Safety and Health Administration (OSHA), they will conduct inspections of the home office if there are threats of physical harm, or an imminent danger exists. Employers can encourage remote worker safety by providing employees with a list of potential home hazards as well as ergonomic home office recommendations. Employees can use these resources to create a remote work environment that is both safe and conducive to virtual work.

**Employee Relations Issues**

Workplace investigations may prove more difficult to conduct in a virtual environment. When an investigator is unable to interview witnesses in person, they should conduct the interview through a video conference. Accepting an employee’s written statement or speaking over the phone does not allow investigators to read the witnesses’ body language—a critical component of any fact-finding mission.

If an employee is under the influence of drugs or alcohol, HR should plan for a virtual method of identifying signs of intoxication. This could be identifying a trusted local representative to meet the employee or again conducting an interview via video conferencing. A nearby lab should also be identified where HR can send the remote employee to complete drug or alcohol testing.

Given the litany of compliance issues associated with remote work—coupled with the desire of an increasing number of employees to have more remote work options—employers should anticipate these concerns before rolling out permissions for remote work broadly. While many organizations have had to address these concerns on the fly during the pandemic, now is the perfect time to formalize a policy for employees working from another state.

We have recently added a *Working Out of State Checklist* to the mozzo Resource Library. Members are encouraged to review this helpful checklist when preparing to allow employees to work across state lines.

**Isolated Worker Protections**

While it might seem like we’ve all been isolated workers this past year due to COVID-19, Washington Labor and Industries (L&I) has implemented additional safety precautions to protect employees who work alone in occupations such as janitors, security guards, housekeepers, and room service attendants. As of January 1, 2021, hotels, motels, retailers, security guard entities, and property services contractors must adopt specific measures to protect their isolated workers from sexual harassment and assault. These requirements are outlined in RCW 49.60.515 and include:

* Adopting a sexual harassment policy
* Providing mandatory training on prevention of sexual harassment, assault and discrimination to managers, supervisors, and employees
* Providing certain workers an “emergency contact device,” also known as a panic button, that the worker can carry and use to summon immediate on-scene assistance from a security guard, coworker, or other employer-designated personnel
* Providing a list of resources for employees to report harassment and assault

Property services contractors, such as commercial janitorial services, are also required to submit the following information to L&I each quarter:

* The date the business adopted a sexual harassment policy
* The number of managers, supervisors, and employees trained on the policy
* The physical address of the work location or locations at which workers of the property services contractor provide janitorial services, and for each location:
  + The total number of workers or contractors of the property services contractor who perform janitorial services
  + The total hours worked

Archbright is available to help you create or review your sexual harassment policy and provides harassment prevention training to help you satisfy these new requirements. Contact your Archbright Account Executive for details.

**HR FAQ**

**Question:** Our company provides paid parental leave to new parents. To avoid gender bias, we give more leave to the parent responsible for caring for the child and less leave to the secondary caregiver—unrelated to the parent’s gender. Are there any concerns with this approach?

Answer: Studies have shown that women tend to be the primary family caregiver. So, although you do not intend to discriminate against one gender, since your policy may disproportionately negatively impact men, it could still be considered discriminatory. There have been several EEOC settlements with large companies that had primary and secondary caregiver leave policies, and the EEOC determined that they were discriminatory.

In addition, what is the definition of a primary caregiver? It can change based on the circumstances. For example, the mother might be the primary caregiver during their disability period after giving birth. When they return to work, the other parent could move into the role of the primary caregiver. A common scenario like this makes administering the leave very complicated.

Some key facts to remember are:

Leave policies must be gender-neutral, not only by name but also in the way employers administer them.

Parental Leave policies should clearly distinguish between the bonding portion of the leave and any leave for disability associated with pregnancy and giving birth.

Leave for child bonding should be provided equally to men and women with the same benefits and terms.

*Katherine Kummerow | Sr. HR Advisor*

**Introducing Our New Attorneys**

You may have noticed the two new content contributors in the latest Insights issues. It’s time to officially introduce you to our two newest attorneys.

We are delighted to welcome Ben Eckhart to our legal team. In his role as Staff Attorney, Ben advises and guides members, conducts investigations, and facilitates trainings.

Previously, he worked for the Employers Council in Denver and most recently worked as an attorney at Winterbauer & Diamond, a boutique employment defense law firm in Seattle. He earned his B.A. from the University of California, Berkeley, and his J.D. from the University of Denver, School of Law.

He’s excited to assist employers so that they can provide a productive and successful working environment for their company and their employees. So far, he’s enjoyed getting to know our members and learning about different industries such as manufacturing, services, and hospitality throughout the PNW.

During his free time, Ben enjoys watching soccer and exploring the outdoors. Being a self-proclaimed coffee addict, he believes Seattle is the best place to live, since it is home to Starbucks and many other coffee shops.

It is a pleasure to introduce Beth Touschner. She also joined our legal team as a Staff Attorney, through which she helps members navigate complex legal matters, including terminations, disability accommodations, wage and hour issues, state and federal leave laws, and a whole host of other labor and employment law matters.

Originally from Ohio (and a family of attorneys), she graduated from Ohio University and the University of Akron law school. After law school, she moved to Seattle and has practiced employment litigation and labor law for a few law firms, most recently at Cline & Associates. In 2020, Beth began practicing labor law and conducting independent workplace investigations. Having seen the other side, she now wants to dedicate her time to help manage complex situations to hopefully resolve them short of litigation.

Beth is an outdoor adventurer who loves to hike, camp, bike, and kayak. She’s also an avid traveler, her trips range from climbing mountains to doing service-learning projects, like building houses with Habitat for Humanity International.

Ben and Beth join Kellis Borek, Erin Jacobson, and Colleen Mayer to provide members with expert legal advice and help them navigate the many challenges of employment law.

**Download the mozzo Mobile App Today**

Easily access our expert HR and safety resources through your smartphone! Created exclusively for Archbright members, the mozzo Mobile app is available through the App Store and Google Play, and includes the following features:

Interact with your fellow Archbright members—Ask questions, share experiences, exchange advice, and build your professional network through the Community forum.

Grow skills across your organization—mozzo’s Video Training Library contains a wide range of courses, available to you 24/7. Most videos are under 10 minutes long, making it easy to fit into your workday.

Get your questions answered right away—Message our experienced team of HR and Safety Advisors through Advisor Chat, available every business day from 8:00 AM–5:00 PM.

Access HR and safety resources—mozzo’s Resource Library contains hundreds of forms, sample policies and programs, training materials, and legal guidelines. All resources are vetted by our experts and are available to download and share at any time.

Check the status of your claims—If we manage your workers’ compensation claims, you can track their progress through mozzo’s Claims Tracker.

To access mozzo Mobile, you must have an active mozzo user account. If you aren’t sure about your status, please reach out to your Account Executive or contact info@archbright.com for assistance.

Availability of some features is dependent on the user’s membership level and permissions.

**Reviving Safety Training Programs Using the Hierarchy of Controls**

Although employers want to keep their employees safe at work, safety training often gets neglected as production demands are prioritized. During the COVID-19 pandemic, safety training ranked even lower as employers shifted focus to keeping their businesses open, adhering to state restrictions, and preventing workplace COVID-19 outbreaks. Employers have a responsibility to keep their employees safe from workplace hazards, so now that restrictions have lifted and workplaces are starting to normalize, it’s essential that employers ensure that they are in compliance with safety training requirements.

Steps to reviving safety training programs:

Identify workplace hazards that are potentially dangerous or have the potential for injury. A helpful tool is a Job Hazard Analysis (JHA). This is a crucial first step to pinpoint the areas and operations that are high-risk. You can then determine what trainings you need to provide for these hazards to reduce the chance of injury in the long run.

Develop a plan to eliminate or reduce the hazards. The Safety Hierarchy of Controls (HOC) method outlines how employers can best address workplace hazards. Hazard elimination should always be considered first, but when it can’t be eliminated, employers should aim to substitute the hazard with something less dangerous. After potential substitutions, engineering controls should be introduced, such as machine guards that can help isolate workers from danger. Next, administrative controls such as training workers on how to protect themselves from hazards should be established. Finally, personal protective equipment (PPE) can be provided and used as a last line of defense to protect workers when all other controls have failed.

Provide trainings on common hazards. Trainings on equipment or areas employees are most often exposed to and most likely to have severe injury outcomes should be prioritized. If only a few training topics were missed during the pandemic, focus on these subjects to get employees the knowledge and skills necessary to do their jobs safely. Some training is only required when employees start new job tasks, while other training is recurring. You can visit osha.gov or your state-run safety agency’s website, such as lni.wa.gov in Washington and osha.oregon.gov in Oregon, to find the industry training topics and frequency requirements that may apply to your organization.

Develop a safety training schedule. After you’ve completed the high priority trainings, equally distribute other safety trainings throughout the year. Be sure to consider busy seasons and employee headcount fluctuations that may apply to your business. If employees are hired after training has already occurred, develop a plan to get these employees trained before they start job tasks that could expose them to safety hazards

Eligible members can find a sample JHA and numerous training resources in the mozzo Resource Library. Members interested in Archbright training services or who have questions are encouraged to contact the Safety Hotline.

**First Aid Training is Back!**

Archbright is excited to announce in-person First Aid/CPR/AED training is back! Starting in September, members can schedule onsite full certification or re-certification classes for a group at their worksite or register individuals for a class at our Seattle location. To sign up for training, visit Archbright.com or email info@Archbright.com for more information.