**Archbright™**

**Insights Newsletter**

**October 2019**

**Introducing the Employee Engagement Survey**

Only 33% of employees in the U.S. are engaged. How does your organization compare?

Archbright’s Employee Engagement Survey (EES) is a measurement tool designed to uncover underlying disengagement within an organization and set the stage for developing an action plan to resolve any issues found through the process.

We make it easy.

* We invite your employees to participate in the survey via email.
* Employees complete the survey on their computer or their mobile device.
* Once the survey closes, we analyze the data. We then walk you and your team through the survey’s results.
* After that, you’ll receive online access to your engagement data for reporting.

Through this process, you’ll learn the unique set of drivers causing any disengagement in your organization. You can then strategically plan how to improve employee engagement and, in turn, performance.

To find out more, please reach out to your Account Executive, or contact us at info@archbright.com, 206.329.1120, or 509.381.1635.

**Compliance Information at Your Fingertips**

One of the most valued benefits of membership is the HR Toolkit. This rich knowledge base includes hundreds of downloadable resources on nearly every HR topic.

Developed and maintained by our HR Advisor and Legal Team, we work continuously to update the Toolkit and ensure members have the most current compliance information at their fingertips.

So far this year, members have accessed the HR Toolkit nearly 8,000 times!

The most popular resources should come as no surprise to our Washington State members:

* Washington Paid Family and Medical Leave Keynote (See sidebar for info about our upcoming members-only virtual Q&A on this very topic!)
* Washington State Paid Sick Leave Keynote
* Family and Medical Leave Act Keynote

If you have not yet explored the HR Toolkit, log in to your Archbright.com account and look under Member Home. I also highly recommend you download Archbright Mobile to experience the HR Toolkit in

a whole new way! You can search, view, and share resources right from the app. It is so easy to use!

Remember, if you have any questions about any resource in the Toolkit, our HR Advisors are here to help. Simply call or email the HR Hotline.

Lastly, a reminder that it is renewal time. Your annual membership will auto-renew at your current membership level on January 1st. Please email us by

December 2nd if you want to make any changes to your membership for 2020.

From all of us at Archbright, thank you for your continued membership!

**Archbright helps you gain HRCI Certification Credits**

An HR Certification Institute® (HRCI®) certification distinguishes you as a master in the HR field, with proven levels of skills and knowledge, and the competence necessary to mitigate risks and drive business results.

As an employee of an Archbright member company, you may earn up to 12 HRCI credits simply because of your organization’s current membership status.

This benefit includes:

* Earn 3 credits under the PROFESSIONAL ACHIEVEMENT / HR Membership category-up to a maximum of 9 credits every year!
* Earn 3 additional BUSINESS credits - 1 per year for SPHR - under the INSTRUCTOR-LED CONTINUING EDUCATION / In-House Training category.

For employees who haven’t yet earned their GPHR, aPHR, PHR, or SPHR certification but are planning on taking the exam, they’ll receive $50 off the exam fee! And, don’t forget, Archbright offers PHR/SPHR exam prep training. The next session starts in January 2020.

Questions about this benefit? Visit your Member Home page or contact Archbright Member Services at 206.329.1120, 509.381.1635, or info@archbright.com.

**Save the Date**

On Tuesday November 19th, Archbright will host a Members-Only Virtual Q&A on PFMLA featuring Erin Jacobson, Director of Legal and HR Advice, and Joy Sturgis, Content Manager. Registration will open soon, so keep an eye out for the invitation in your inbox!

**¡Archbright in Español!**

According to the State of Washington Office of Financial Management, the Hispanic population in Washington state has more than doubled since the 1990s and reached 13.3 percent in 2019. Of those Latinos that call Washington state home, 71.5% are gainfully employed.

What does that mean for Washington employers?

The need for high quality training in Spanish is more important than ever before. Archbright is taking on the challenge, now offering both Leadworker Effectiveness and Workplace Harassment Awareness classes in Spanish.

Leadworker Effectiveness targets employees in Lead roles, those that oversee the work of front-line employees, making sure productivity goals are met within quality and safety standards. In the class, Leads learn the skills that they need to make an impact, such as setting expectations and providing feedback. The class can be taught onsite at Member locations in either English or Spanish by a native Spanish speaker.

Workplace Harassment Awareness is particularly important to offer in both English and Spanish to ensure laws are understood and responsibilities are clear to help keep the workplace free from harassment. We are excited to announce our latest course, Workplace Harassment Awareness in Spanish On Demand!

This 60-minute online course allows employees to minimize time away from work, while learning essential information about harassment in the workplace. Protect your business and your Spanish speaking employees by enrolling them in Workplace Harassment Awareness in Spanish today!

Source: Amy Bachmann, Director of Archbright University

**Washington’s Paid Family and Medical Leave is Coming Soon**

Beginning January 1, 2020, paid family and medical leave will be available through a State administered plan to all employees employed by an employer in the State of Washington. Family and medical leave insurance benefits will be payable by the Employment Security Department (ESD) to employees during a period in which they are unable to perform their regular or customary work because of the need for family and medical leave. When benefits become

available in January 2020, Paid Family and Medical Leave (PFML) will provide partial wage replacement to all eligible workers in Washington state for leave to bond with a new child through birth, adoption, or foster placement, to care for themselves or a family member during a serious illness or injury, and for certain military related events.

PFML is funded by premiums paid by both employers and employees. Employers with less than 50 employees working in the state of Washington are exempt from paying the employer portion of the premium; however, the employee share must still be remitted to ESD.

What you should be doing now:

1. Continue quarterly reporting. By now employers should have remitted Q1 and Q2 reports to ESD. Future reports will be due to the state on the last day of the month following the end of the calendar quarter.
2. Prepare employee communications and policies. Under the law, employers will be required to inform employees of their rights to PFML by posting a notice with other required posters. This notice will be made available by January 2020. Employers are not required to include a PFML policy in an employee handbook but may choose to. Eligible members may access a sample policy in the Archbright HR Toolkit.
3. Determine whether paid time off plans will be designated as “supplemental” plans. The original law stated that “an employer may allow an employee who has accrued vacation, sick, or other paid time off to choose whether: (a) To take such leave; or (b) not to take such leave and receive paid family or medical leave benefits.” H.B. 1399, passed in April of 2019, modified the law so that employers could supplement PFML with available paid time off plans. However, employers may not require an employee to receive supplement benefit payments; the choice to receive supplemental benefit payments lies with the employee.  
     
   Phase 6 of the State’s ongoing rulemaking process states that employers may, but are not required to, designate all or certain paid time off plans as a “supplemental benefit payment” offered to an employee who is taking PFML leave. Under this rule, paid time off considered “supplemental” would not be reported to the state as wages and therefore can be taken at the same time as PFML benefits. A paid time off benefit not designated as supplemental would be reported to the state as wages and therefore PFML cannot be requested for the same timeframe an employee is being paid by the employer.
4. Review current and upcoming FMLA and/or medical leaves that may cross over into 2020. Under PFML, employees have 12 months from the date of a child’s birth or placement (foster or adoption) to take parental leave. If a child was born or placed with the employee in 2019, they can apply for benefits beginning January 1, 2020.

For example, if the child was born February 1, 2019, they could apply for benefits on January 1, 2020 and receive the benefit until February 1, 2020. If the child is placed with the employee in November 2019, they can apply for benefits and take leave any time before the one-year anniversary of the birth or placement.

The State is still in the rulemaking process of this law, which means they are still developing the scope and content of the rules for the Paid Family and Medical insurance program. Archbright will continue to monitor the rules and update members as information is available. Eligible members may access Archbright’s comprehensive KeyNote and FAQs on the Archbright HR Toolkit located on the Members Only website and Archbright Mobile.

Source: Joy Sturgis, SPHR, SHRM-SCP, Content Manager at Archbright

**US Department of Labor Issues Final Overtime Exemption Changes**

On September 24, 2019, the US Department of Labor (DOL) announced long-awaited changes to the overtime threshold for white-collar exemptions. Effective January 1, 2020, the FLSA’s salary basis test will require that exempt employees be paid at least $684 per week, or $35,568 annually. This is an increase of more than 50% from the current minimum of $455 per week. The minimum total annual compensation requirement for “highly compensated employees” (HCE) will rise from the current level of $100,000 to $107,432 per year. There is no proration for part-time employees.

Employers may use nondiscretionary bonuses and incentive payments (including commissions) that are paid annually or more frequently to satisfy up to 10 percent of the minimum salary level.

If an employee does not earn enough in nondiscretionary bonus or incentive payments in a given year (52-week period) to retain their exempt status, the rule permits the employer to make a “catch-up” payment within one pay period of the end of the 52-week period. This will count only toward the prior year’s salary amount and not toward the salary amount in the year in which it is paid.

Earlier this year, the Washington Department of Labor & Industries (L&I) released its own proposed rules that would significantly update the minimum amount employees must earn before they can be exempt from receiving overtime pay and simplify the “duties test” to align more closely with the federal test. L&I held public hearings in early September and the department is in the process of preparing responses to the public comments received. A final decision by L&I is expected in early December 2019.

Our HR Advice and Legal Team is here to help you navigate through these changes and will continue to keep you updated on any further developments. In the meantime, Archbright encourages members to review all jobs classified as exempt to ensure that the employees classified as exempt meet the new weekly salary minimum. Eligible members are encouraged to contact an Archbright HR Advisor with any questions regarding exemption status and/or to coordinate a FLSA review by one of our attorneys.

Source: Ami De Celle, Attorney at Archbright

**HR FAQ**

**Question:** An employee has requested FMLA leave to care for her adult daughter who just had a baby. Is this a qualifying reason under FMLA?

**Answer:** Maybe. In order to take FMLA leave to care for an adult child, the child must be incapable of self-care due to a disability. Additionally, the employee must be needed to care for the disabled adult child because of a serious health condition. While any incapacity due to pregnancy will be a serious health condition for FMLA purposes, pregnancy itself is not a disability. However, pregnancy-related impairments may be considered disabilities if they substantially limit a major life activity.

If the adult daughter has a pregnancy-related impairment, such as being placed on bed rest, that substantially limits one or more of her major life activities, such as walking or lifting, then she has a disability. If she is incapable of self-care due to that disability (e.g., needs active assistance in cooking, cleaning, and shopping), then she qualifies as an adult child under the FMLA. In such circumstances, assuming the employee is eligible for FMLA, the employee would be able to take FMLA-protected leave to care for the adult child.

Source: Joy Sturgis, SPHR, SHRM-SCP, Content Manager at Archbright

**Conducting Workplace Investigations**

An employer has a duty to conduct a prompt and thorough investigation of alleged acts of harassment, discrimination, workplace violence, or when they receive a safety complaint.

The duty to investigate exists even if a complainant requests that no investigation be undertaken. The duty to investigate exists whether the complaint originates through formal channels, such as a written complaint made to an EEO officer, or informally through conversation with an employee. This duty exists even if the employer becomes aware of stale or old events. (For example, the complaining employee does not work for the company any longer.)

At Archbright, we offer members support for their workplace investigations in several ways:

* Eligible members can talk directly to an HR Advisor about a complaint by calling the HR Hotline.
* In the HR Toolkit, eligible members can access our Workplace Investigation Keynote and sample policies.
* Members can attend our Conducting Workplace Investigations class and receive practical instruction on how to effectively investigate complaints.
* Our HR Advisor and Legal Team can conduct investigations.

So far this year, Archbright has completed 25 investigations for members. The most common type of complaint is harassment based on a protected status, such as race or disability.

“Members with experienced HR managers who know how to investigate are choosing Archbright to conduct their investigations,” said Erin Jacobson, Director of Legal and HR Advice. “Doing so preserves their HR team’s neutrality and demonstrates to the complaining employee they are committed to a fair process.”

For more information about how we can help with workplace investigations, contact us at info@archbright.com, 206.329.1120, or 509.381.1635.

Source: Archbright

The top 5 charges filed in 2018 according to the Equal Employment Opportunity Commission were:

1. Retaliation: 51.6%
2. Sex: 32.3%
3. Disability: 32.2%
4. Race: 32.2%
5. Age: 22.1%

Retaliation has held the top spot since 2009.

**Temporary and Contract Workers**

In today’s economy, with the national unemployment rate currently at 3.7%, it is often difficult for employers to find qualified employees to fill open roles. As a result of the booming economy and a low unemployment rate, companies often turn to staffing agencies to contract out employees.

Not all employers understand the need to protect, train, and maintain these workers as if they were a staffed employee. Whether temporary or permanent, all workers have a right to a safe and healthy workplace.

A staffing agency and the staffing agency’s client (host employer) are considered joint employers of temporary workers. Both parties must work together to ensure the Occupational Safety and Health Act of 1970 requirements are fully met. Each worksite is different, and the obligation of the employer will vary depending on workplace conditions and activities. Employer obligations should be addressed in the agreement between the staffing agency and the employer. The joint employment structure requires effective communication and an understanding of each parties’ responsibilities.

Some best practices to keep in mind include:

* Evaluation of Host Employer’s Workplace – Staffing agency and host employer should jointly review worksite; the task assignments; and job hazard analysis, to identify and mitigate potential safety hazards. They should also identify required training and protection for each worker.
* Review Each Other’s Injury and Illness Prevention Program – Host employers should request and review the safety training records.
* Assign Safety and Health Responsibilities – Set clear responsibilities so there is no room for ambiguity. Designate who may be better suited for compliance between the staffing agency and the host employer. The agency-host contract should specifically state who is responsible for specific safety and health duties.
* The Onus of Inquiry – The staffing agency is obligated to inquire and verify that the host has fulfilled its responsibilities for a safe workplace. This includes having a written procedure for the worker(s) to report hazards or areas where the host-employer has changed the temporary worker’s job duties. (OSHA)
* Injury Reporting – Information about injuries should flow between the host employer and the staffing agency. If a temporary worker is injured and the host employer knows about it, the staffing agency should be informed as soon as possible. Also, if a staffing agency learns of an injury, it should inform the host employer promptly so future injuries may be avoided. Both the host employer and staffing agency should track recordable injuries and, where possible, investigate its cause.
* Training of Workers – This is the responsibility of both the staffing agency and the host employer. The staffing agency should provide general safety training that applies to multiple occupational settings. The host employer should provide specific training to temporary workers. Host employers should provide

temporary workers with safety training that is identical or equivalent to that provided to the host employers’ employees performing the same work.

* Stay Connected – A staffing agency should establish methods to maintain contact with temporary workers. Ensure that someone is touching base with the workers throughout the job assignment.

Employers working with staffing agencies should work as cohesively as possible. The onus of keeping the workforce safe is in both entities’ hands. Strength in numbers can be a beautiful thing, if both are working in unison. Stay safe out there!

Source: Eric Wood, Loss Control Analyst II at Archbright

**Monthly Safety Webinar**

Temporary/Contract Worker Safety

Thursday, October 17th, 2019 | 2:15 p.m.

All workers have a right to a safe and healthy workplace regardless of whether they are temporary or permanent employees. The staffing agency and the staffing agency’s client are joint employers of the temporary workers and, therefore, both are responsible for providing and maintaining a safe work environment for those workers.

Visit the Safety Webinars page at Archbright.com for registration information. Reserve your seat today!

**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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