**Archbright™**

**Insights Newsletter**

**November 2021**

**Coming Soon: Exciting New Features in the mozzo Video Training Library**

The mozzo Video Training Library is a tool for your organization to provide essential trainings to you and your employees in an easy-to-use, on-demand format. Produced by our experts, most of the available trainings are under 10 minutes long and easy to fit into any schedule.

And now it’s getting even better! We’re excited to roll out these new features in November:

Assign learner seats, create groups of learners, and assign training to individual employees or groups.

Create a custom training track with targeted videos for specific employees.

Access and download information about learner activity within your organization, including viewed trainings and assigned training tracks and videos.

Search for videos recently viewed by learners inside your organization.

Access employee completion records for courses with quizzing. You can also view and print employee completion certificates.

We’ll be announcing when these features go live in our weekly mozzo email! So keep checking your email every Friday for the latest scoop.

In the meantime, if you have any questions about these changes, please contact us at info@archbright.com.

**Giving Thanks**

It is that time of year again… time to express our gratitude. The Archbright Team would like to thank you, our members, for placing your trust in us once again this year. It has been an honor to serve each and every one of you as you continue to face the challenges brought on by the pandemic and the Great Resignation.

As the year winds to a close, I wanted to take a moment to remind you of the core membership benefits available to you:

* Our HR and Safety Hotlines provide live, real-world guidance at your fingertips. Simply call or email our HR Advisors and Safety Teams with your concerns and questions and get the answers you need, right when you need them. Or access our advisors through Advisor Chat in mozzo!
* Silver and Gold Archbright members receive employment law advice from the Archbright Legal Team. Silver members receive 15 hours each year, and Gold members receive unlimited advice. There is no better, cost-effective way to make sure you have an employment attorney available...we’re just a phone call away. And as you review your vaccine exemption requests, these legal hours could help you navigate the gray areas.
* If you have not activated your mozzo seats, I encourage you to do so! We have added many new microlearnings to the Video Training Library, as well as our on-demand Workplace Harassment Awareness class. If you have not yet had a mozzo tour, please reach out to your Account Executive to schedule one!

We are always here to support you with any of your workplace performance needs. Please do reach out to us if we can help you more in any way. In the meantime, we wish you a warm and safe Thanksgiving!

**It’s Renewal Time!**

It’s that time of year again. As an Archbright member, you have from now till December 1, 2021, to make changes to your membership level. Please email us at info@archbright.com with your changes.

Note: if you would like to remain at the same level for 2022, then you do not need to do anything! Your membership will automatically renew on January 1, 2022.

Thank you for your continued membership!

**Are Your Compensation and Benefits Packages Competitive?**

By measuring your compensation and benefits packages against other companies in the Pacific Northwest, you can gauge if you’re remaining competitive in the market. Each year, Archbright surveys hundreds of small and medium sized companies across core PNW industries for the Regional Pay Survey and the Regional Benefits Survey. The results for 2021 are available for purchase now on Archbright.com!

**Last Chance to Register for the Final 2021 Workshop in the Northwest Diversity Learning Series!**

Do you want to build a healthier workplace culture where each person on your team—including your clients—feels a greater sense of psychological safety, trust, and belonging?

Join ISDI for their final workshop this year, Build Belonging at Work: Everyday Actions You Can Take.

Register at: https://www.i4sdi.org/session-6-nov-10

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

Date: November 10, 2021, 9:00-11:30 AM (PDT)

Presenters: Rhodes Perry (he/him), best-selling author, sought-after keynote speaker, and
award-winning social entrepreneur.

Dr. Tatyana Moaton (she/her), the CEO and Principal Consultant for Envision Consulting, one of the first black trans led consulting firms in the country.

**Diversity, Equity, and Inclusion Training in mozzo**

We can all agree that the Black Lives Matter movement of 2020 changed the face of our nation and employee expectations. In 2021, the need to address diversity, equity, and inclusion in the workplace topped the priority lists of HR professionals across the country. However, with 2022 quickly approaching, there is so much more to be done.

“D&I is far more than an ‘HR issue’,” a recent article in the Harvard Business Review reports. “It should be a core ingredient in the design and execution of business strategy and embedded in the activities of the organization day in, day out.”

Archbright University has courses readily available, like our Diversity and Inclusion in the Workplace training, which provide ongoing and consistent diversity training to your employees. Archbright offers a three-phased approach for advanced learning, providing organizational assessment, coaching, and employee training through Archbright Advance. Also, online training is available through mozzo year-round.

Online training in mozzo has been designed with three key characteristics to make learning successful:

Targeted outcomes

Convenience

Trackable results

The mozzo Diversity, Equity, and Inclusion Training Track can be assigned to specific employees for targeted learning outcomes. Current topics include *Diversity, Equity and Inclusion Defined*, *Being an Ally*, and *Subtle Acts of Exclusion*. Check back often as we are continuing to add new courses regularly. Each microlearning is under 10 minutes long and employees can access them when it’s convenient for them. Training completion can be tracked with the click of a button, allowing managers and HR teams to gather and maintain training data annually.

For more information on how to access Training Tracks or learner seats in mozzo, please reach out to your Archbright Account Executive or email info@archbright.com.

**Paramour Preference: Is it Illegal to Give Preferential Treatment to a Romantic Partner?**

Last year, the U.S. Supreme Court confirmed in Bostock v. Clayton County that Title VII’s protected classification of “sex” is defined to include protection from discrimination on the basis of sexual orientation and gender identity. This opened the door to claims from employees attempting to further expand the definition of sex under Title VII.

The Ninth Circuit Court of Appeals in Maner v. Dignity Health recently rejected one such attempt from an employee who claimed to have been a victim of “paramour preference.” William Maner worked in a medical laboratory under the supervision of a doctor who was in a long-term romantic relationship with one of Maner’s female co-workers. After a reduction in funding, the employer terminated Maner while retaining the supervisor’s romantic partner. Maner filed suit under Title VII, alleging that the employer’s retention of the female romantic partner constituted discrimination against him on the basis of sex.

It was undisputed that the female employee was the beneficiary of preferential treatment; however, the basis of the preference was her relationship with the supervisor (i.e., paramour preference) rather than her sex. Following Bostock, the definition of sex encompasses sexual activity and sex characteristics, which Maner argued should include the romantic involvement of an employee and supervisor.

The Ninth Circuit rejected Maner’s argument based on Bostock, wherein the Supreme Court described the test for sex discrimination as follows: “If the employer intentionally relies in part on an individual employee’s sex when deciding to discharge the employee – put differently, if changing the employee’s sex would have yielded a different choice by the employer – a statutory violation has occurred.” Applying this test to Maner’s case, the employer’s choice of which employee to retain (the one involved with the supervisor) and which to terminate would not have changed if Maner’s sex had been different. Therefore, the Ninth Circuit concluded that the employer’s selection was not based on sex and did not violate Title VII.

An employer’s paramour preference may not violate Title VII, but is it advisable? Of course not. While rejecting Maner’s Title VII claim, the Ninth Circuit nonetheless recognized: “Workplace favoritism toward a supervisor’s sexual or romantic partner is certainly unfair to similarly situated workers and more than likely harms morale. But...employment practices are not unlawful simply because they are unwise.”

**HR FAQ**

Question: A job applicant disclosed in an interview that she has a service dog. What do we need to know if we decide to hire her?

Answer: People often confuse the different types of animals used in a service capacity. Emotional support animals usually provide their owners with companionship and a sense of security but are not typically trained to assist with a disability. Under this definition, employers have no obligation to permit an emotional support animal. A service animal is usually a dog, and sometimes a miniature horse, who has received extensive training to assist an individual with a disability.

To begin, you may ask the applicant: “Is the animal a pet, an emotional support animal, or a service animal?” If the owner answers that they are indeed a service animal, next, you should ask: “What is this animal trained to do for you?” If the animal assists the person with their disability, the next step would be to engage in an interactive discussion similar to other disability accommodation requests to determine if allowing a service animal is reasonable.

If you allow the service animal in the workplace, it’s a good idea to clarify expectations with the owner early, such as requiring good behavior, regular grooming, current immunizations, immediate clean-up, and consequences for not complying.

Want to know more about employer obligations when it comes to service animals? Read our Service Animals Keynote in the Resource Library on mozzo.

**Strategies to Keep Your Footing in the Approaching Turnover Tsunami**

Word on the street is…your employees have been looking for new jobs! According to the 2021 Achievers Workforce Institute Engagement and Retention Report, 52% of employees said they intended to look for a new job—up from 35% in 2020. Employers are already having trouble recruiting talent, and they can’t afford to lose employees they already have.

Why are they leaving?

Burnout. The COVID-19 pandemic has been trying for both businesses and employees. Tension and stress continue to run high, with little hope for improvement in the near future. Burnout is one of the primary reasons employees are looking for new jobs. Employees are working longer hours because they are either concerned they will appear unproductive, or their colleagues have left the organization, leaving them to pick up the slack. They may, in turn, feel unappreciated.

Work/Life Balance. Employees want—and need—a better work/life balance. The long hours and stress have caused employees to evaluate what’s important, and they now have an increased desire to be more engaged outside work. Some employers offer little to no flexibility when it comes to scheduling or working location. Employees are tired of the long commute, missing that Little League game, or not being able to take mom to her doctor’s appointment. They may seek other employment opportunities that offer this flexibility to tend to personal matters.

Feel disconnected and undervalued. Working remote creates challenges in keeping employees engaged. Many companies are not navigating this challenge with success. Employees feel disconnected from their team and other co-workers and feel that their contributions don’t matter because they aren’t acknowledged.

Seeing colleagues receive a pay increase (or other rewards) by changing jobs. The shortage of labor and abundance of jobs means employers are paying more for talent, and employees know it because they hear about it from their colleagues.

How do you keep the employees you have?

Ask questions and listen to them. Consider conducting stay interviews to understand what keeps your employees there or what may attract them to a new job. Having a third party conduct the stay interviews ensures anonymous, honest, and valuable employee feedback.

Model taking time off. Don’t just encourage employees to take time for a meal, a walk around the block, a quick coffee run, or shut things down at 5 PM. Managers and company leaders can ensure that employees take time by modeling the behavior themselves.

Normalize flexibility. Whether it is a flexible schedule that allows an employee to see that t-ball game or take mom to the doctor, when possible, make it happen. Consider remote work if you haven’t already done so. Employees are exhausted from long commutes, and they see the majority of the workforce now working remotely. Strive to make this a viable option, even if only on a part-time basis. Consider even taking it a step further and allowing employees to work from another state. There are many considerations when assessing this possibility but be willing to investigate the option.

Acknowledge employees for their commitment. Thank employees for doing an exceptional job, for going above and beyond, for working overtime, and for continuing to show up every day. The acknowledgment could be in the form of compensation or just words of affirmation—even better if made public.

Offer growth opportunities. Employees may be bored at their current job. Whether it is a training opportunity, a mentorship, or a promotion, employees are motivated and excited about learning new things and gaining experience. Keep them engaged and eager to come to work.

Plan for the future. Employers must consider the full effect of the pandemic on employee compensation, both now and what may happen down the road. Layoffs and resignations disproportionately impacted women and women of color to care for families during the pandemic. What happens when this group of workers re-enters the workforce? Will they need to start in an entry-level position and take yet another penalty in pay, furthering the wage gap? Expect pay increases to be permanent; the labor shortage isn’t going anywhere soon. If employers take away higher “pandemic” pay, employees will find another job that pays more.

Commit to pay equity and higher transparency. The generation entering the workforce, Generation Z, wants more pay transparency. A recent poll published in beqom’s 2021 Compensation and Culture Report stated that almost 60% of employees in Generation Z would switch jobs for more pay transparency. They’re talking about pay openly with each other. If you haven’t already, conduct a pay equity analysis and address issues. Don’t try to hide any problems. Instead, let your employees know you’re taking preventive measures to ensure pay is being applied fairly and keeping up with the changing market. There is a direct correlation between the perception of pay fairness and employee engagement. If you don’t let employees know what’s happening, they will “fill in the blanks” in their minds, often painting employers in a worse situation than the truth.

Get creative. Employers must be creative with incentives such as hire-on, retention, and project bonuses to attract and retain talent. An experienced and trained employee is likely worth more than a new employee, so be willing to pay for it. When providing incentive bonuses, set criteria and procedures, or managers may give them out more often than necessary or without permission. In addition, consider splitting the bonus over time – for example, 25% initially, 25% at three months, and 50% at six months.

Finally, don’t wait! Be proactive. Ask the questions and respond accordingly. Being passive will only land you behind the pack. It is much better to make necessary changes NOW to keep good employees rather than losing them because you didn’t do enough to address their concerns.

**Recruiting Quality Candidates at Your Organization**

Many employers are feeling the impact of employees voluntarily resigning and are scrambling to hire new talent. According to Jobvites’s 2021 Recruiter Nation Report, 47% of hiring companies have expressed that finding quality candidates is the top roadblock.

COVID-19 has changed the job market for both job seekers and for employers. Some job seekers have changed fields, by choice or by necessity, so talent pools may look different than they did pre-pandemic. Many candidates are now looking for fully remote positions. Employers may have discovered new ways to approach their work during the pandemic as well and could have a different set of needs from new hires as they ramp up operations.

Here are the top 5 tips for employers looking to hire in today’s market:

Timeliness. The job market is moving fast, so once you identify candidates, you need to move through the interview and decision-making process quickly.

Priorities. What are the absolute must-haves for the job you’re trying to fill? Keep your focus on the most important priorities.

Flexibility. You may not be able to find many (or any) candidates with all of your prerequisites for the job. Consider whether any of those are trainable for the right candidate. Be strategic about the skills you’re listing as requirements in your posting or you may steer away a good candidate that would’ve been a great overall fit for your team. Skills are teachable, personality and work ethic are not.

Look for new sources. Maybe the same job boards that everyone else uses to post positions are not going to target, or stand out enough, to the audience that you’re trying to attract. Network with your professional community. Career Centers at high schools or colleges, depending on the level of position, could be good sources. Community-based organizations may also be a good source. Are there professional associations that can spread the word about your opportunity?

Open-mindedness. With the challenges that come with recruitment and hiring in today’s market, be open to trying new approaches to get the job done. They just might work!

How can Archbright help you?

The job market is competitive, and it can be overwhelming to look for new employees, especially as you manage your current responsibilities along with any new demands of COVID-19 requirements. From creating the job posting that captures what your organization needs, to finding candidates that would be a good fit, and conducting phone screens, we can help you locate quality candidates.

With Archbright’s Flat-Fee Recruiting, our recruiting consultant will source the best candidate pool possible for your open position. For 60 days, we work closely with your hiring manager to create a comprehensive plan that supports your company’s culture and management style. We provide the time and expertise to write a strong posting, then sort through and

pre-screen candidates. We’ll only send you those that meet your requirements. In these very busy and uncertain times, we are ready to help!

For more information, please reach out to your Archbright Account Executive or contact us at info@archbright.com.

**Get to Know our Recruiter, Sandra Villegas!**

Sandra Villegas, SPHR, SHRM-SCP, is a Human Resources Consultant with over 25 years of HR experience. At Archbright, she provides onsite consulting services to businesses and supports member companies in their recruitment, compensation, and compliance efforts. Sandra is experienced in working with small to large organizations, and during periods of significant organizational change.

Prior to joining Archbright, Sandra held leadership roles in Human Resources with PayLess Drug Stores, Washington Mutual Bank, and West Coast Paper. She also provided Human Resources expertise in a consulting role at Washington Employers (now Archbright) as well as another EAA Association serving Montana and Wyoming.

Sandra has a bachelor’s degree in Business Administration from Oregon State University and SPHR and SHRM-SCP certifications. She is a member of the Society for Human Resources Management nationally as well as the South Puget Sound chapter.

Sandra is passionate about providing HR guidance and solutions to the members of Archbright by helping them with communication and performance improvement, employee engagement, and compliance.

**OSHA to Issue COVID-19 Vaccination Rule**

In September, President Biden announced that the Occupational Health and Safety Administration (OSHA) would issue an Emergency Temporary Standard (ETS) requiring businesses with 100 or more employees to mandate their workers be fully vaccinated against COVID-19 or undergo weekly testing. Employers covered by the ETS will also need to give their workers paid time off to get vaccinated and recover from any side effects experienced by being vaccinated.

OSHA Enforcement\*

Typically, new safety regulations take several months to years to develop before being introduced as workplace rules. OSHA expedites a regulation categorized as an ETS when it has determined that workers are in grave danger of a new workplace hazard. On October 12, the Department of Labor advanced Biden’s vaccine mandate-or-test emergency rule to the White House’s Office of Information and Regulatory Affairs for review and approval as an ETS. Once approved, state OSHA plans such as Oregon and Washington will have 15 days to adopt the ETS or announce an alternative plan that meets or exceeds the federal standard. We expect that the ETS will be official by early November and that OSHA will begin enforcing the ETS by January 1, 2022. Employers who fail to comply with the ETS mandates could face fines up to $14,000 per violation. The ETS can remain in place for up to six months, after which it will expire or be replaced with a permanent OSHA standard.

How Impacted Employers Can Prepare

Determine how to verify employees’ vaccination status. The process should detail the steps to collect and maintain the records confidentially.

Begin verifying employees’ vaccination statuses. Understanding the number of vaccinated employees ahead of the mandate will provide more information about employee attitudes towards vaccines and possible turnover.

Establish a plan if allowing employees to test weekly in lieu of vaccination. Allowing weekly testing may be an administrative burden, and employers may choose a mandatory vaccination policy instead if they wish.

Decide how to handle accommodation requests. Employers that mandate the vaccine will need to develop a plan to address medical and religious accommodations.

Ensure you’re meeting all other COVID-19 federal, state, and local requirements. Employers must follow all requirements that apply to their business, including implementing COVID-19 prevention strategies and training. Failure to follow any requirements may result in citations or, in severe cases, business shutdown.

Archbright will continue to monitor COVID-related rules and regulations and update members through Compliance Alerts, Insights articles, and mozzo updates. Members are encouraged to review our COVID-19 resources, such as the *COVID-19 Vaccine Mandate Tip Sheet* in the Resource Library and direct questions to the HR and Safety Hotlines.

**The Numbers | As of October 15, 2021:**

The ETS will affect more than 80 million workers in the U.S.

There are more than 219 million COVID-19 cases worldwide, with more than 44.8 million in the U.S.

More than 188 million people in the U.S. are fully vaccinated.

Although not all adults are eligible for the COVID-19 vaccine due to medical conditions, according to the Census Bureau, 11% of the eligible population is hesitant to receive the vaccine, mostly due to concerns of side effects (50.6%) and a lack of trust in the COVID-19 vaccines (47.6%).