**Archbright™**

**Insights Newsletter**

**September 2020**

**Introducing The Power of Habit™
a transformative new class**

Adaptability is critical to success in our fast-paced, ever-changing world. Organizations, teams, and individuals often fail to make required—or even aspirational—changes because they are stuck in their habits. This space between knowing and doing represents a behavioral lag. And living in the lag threatens engagement, innovation, performance, productivity, health, and happiness.

Based on the New York Times bestseller by Charles Duhigg, The Power of Habit™, this new training from Vital Smarts teaches skills to identify and create the habits needed for success within an organization.

After completing this course, participants will be able to:

* Identify the habits that disproportionately impact performance, engagement, and happiness.
* Use *skill* instead of *will* to replace limiting habits with effective habits.
* Adapt when faced with change.
* Create new routines that produce desired outcomes.

We are excited to add The Power of Habit™ to the Archbright University calendar. Registration is now open for these upcoming virtual sessions:

September 22 | 9am to 4pm October 29 | 9am to 4pm November 16 | 9am to 4pm

For more information about this exciting new class, or to register, visit Archbright.com today.

**Archbright Awards 200K to Local Non-Profits that Provide Health and Wellness Service**

In 2014, Archbright endowed $1.8 million to be awarded over 10 years via the Seattle Foundation in the amount of $200,000 each year. The mission of Archbright’s Health and Wellness Fund is to encourage healthy lifestyle outcomes of Pacific Northwest residents by providing the promotion of health and wellness education, research, and services.

Grants were awarded this year to support these organizations:

Big Brothers Big Sisters of Puget Sound (www.bbbsps.org) creates and supports one-to-one mentoring relationships that ignite the power and promise of youth.

CHOICES Education Group (www.choices.org) empowers teens to make positive choices to increase their life opportunities and support their health and wellbeing.

Northwest Kidney Center (www.nwkidney.org) is the world’s first dialysis organization, promoting the optimal health, quality of life, and independence of people with kidney disease through patient care, education, and research.

Wellspring Family Services (www.wellspringfs.org) helps children, adults, and families who are experiencing crisis take the next step forward, tap into their own resilience and strength, and build community.

Cascade Regional Blood Services (www.crbs.net) provides a constant, safe, cost-effective supply of blood, blood components, and other related services to community hospitals and clinics in Western Washington since 1946.

We are proud to support these organizations and hope you will too!

**Registration is Now Open for the September Session of the Northwest Diversity Learning Series**

Archbright is a proud sponsor of the 2020 Northwest Diversity Learning Series (NWDLS), produced by The Institute for Sustainable Diversity and Inclusion (www.i4sdi.org).

This annual series offers morning sessions for employees, managers, leaders, and diversity champions to explore current and emerging issues affecting diverse, multicultural work environments.

Register today for the next session:

September 23 | Latinx Rising: Delivering on the Promise
Featuring: Cynthia Chavez and Juan T. Lopez

The Latinx population is a robust driver of economic, political, and cultural forces in America. As the largest nonwhite ethnic group, it comprises 18 percent of the U.S. population (Pew Research and Education Fund). Latinx (or Latinos/Latinas) are among the most innovative contributors to the arts, culture, and the economy in the country.

In this session, explore the “big tent” model to understand the diversity of the Latinx community and dispel the misconception that it is a monolith population, Latinx, Chicano, Latino/Latina, Hispanic—do these terms resonate with the people being labeled?

Despite these and other persistent challenges, learn about the growth engine Latinx represents in terms of talent, leadership, purchasing power, and population. Learn why and how to join forward-thinking corporate and Latinx leaders who pledge to support this resilient, hardworking population with a more inclusive work environment.

When: Wednesday, September 23, 2020
Time: 8:30am to 12:00pm
Where: Virtual

For registration, cost, and more information about the September session, please visit https://www.i4sdi.org/2020-nwdls-sessions or call ISDI at 206.362.0336.

**Best Practices for Engaging E-Learners During the Pandemic**

In order to continue to provide opportunities for professional growth during the pandemic, e-learning is our new reality. As you pivot your learning and development plans to incorporate virtual learning, here are important best practices to look for:

The course should actively involve participants, allowing them ways to engage with the content and with each other. This should be accomplished through synchronous whole group instruction and small group breakout sessions to provide a variety of learning opportunities. This also allows for networking while learning; something professionals crave more than ever before during this time of physical distancing.

With online learning, equity is paramount. An effective e-learning course should offer participants multiple ways to engage in class, ensuring all learners have an active voice, no matter their remote learning circumstances. With so much technology at our fingertips, virtual instructors have more opportunities than ever before to engage online learners.

Equally important, virtual courses should include the same hands-on materials that an in-person class provides. Be it a participant guide or a handout, materials should be in the form of an editable pdf so learners can engage on-screen and off to best suit their learning style.

When taking an Archbright University virtual course, participants can expect the same interactivity as when taking an in-person class. They can learn and share ideas alongside coworkers, in small and large group activities, bringing teams together during remote work.

Our virtual courses are always taught by an expert, live on screen so that participants can ask questions throughout each class for deeper understanding. Every participant also receives a participant guide or handout to reinforce learning long after the course has concluded.

Consider virtual classes at Archbright to provide professional development opportunities and to bring remote teams together through learning. To learn more, reach out to your Account Executive or contact me directly at abachmann@archbright.com.

*Source: Amy Bachmann,
Director, Archbright University*

 **Leave Considerations During the COVID-19 Pandemic**

These past few months have introduced new reasons for employees to take leave, and as result, employers are now facing the challenges of managing an employee’s right to protected leave while ensuring they have enough staff available to maintain their operations. And, as if dealing with a global pandemic and a remote workforce isn’t enough, this fall brings another set of issues as many schools opt for virtual or partially remote learning. Below are the most common pandemic leave considerations employers must be aware of:

Emergency Paid Sick Leave (EPSL): Eligible employees may request up to 80 hours of EPSL in addition to any other paid leave to which an employee is already entitled (such as paid sick leave) for reasons related to COVID-19, including quarantine, illness, or leave to care for a child because their child’s school or daycare is closed due to COVID-19. The additional leave is limited to 80 hours total, not per event. See KeyNote Families First Coronavirus Response Act for additional information.

Emergency Family and Medical Leave (EFMLA): Eligible employees may request up to 12 weeks of paid EFMLA if they are unable to work or telework due to a need for leave to care for their child under 18 years old because their child’s school or daycare is closed due to COVID–19. This leave applies even if the school is open for virtual learning, provided the physical location is closed. EFMLA adds an additional reason to take FMLA; if FMLA has already been exhausted, the employee is not entitled to additional leave under EFMLA. See KeyNote Families First Coronavirus Response Act for additional information.

Family & Medical Leave Act (FMLA): Under the federal FMLA, eligible employees may take unpaid leave for up to 12 workweeks in a 12-month period due to their own serious health condition that makes them unable to perform the essential functions of the job, or to care for the employee’s spouse, child, or parent who has a serious health condition. An employee diagnosed with COVID-19 would likely be considered to have a “serious health condition” even if they are not actually sick. However, an employee taking leave to care for a covered family member with COVID-19 must actually need to provide caregiving responsibilities to be eligible for FMLA. See KeyNote FMLA for additional information.

Washington Paid Family & Medical Leave (PFML) or Oregon Family Leave Act (OFLA): Similar to FMLA, an employee diagnosed with COVID-19 would likely be considered to have a “serious health condition” under PFML or OFLA and an employee taking leave to care for a covered family member with COVID-19 must actually be providing caregiving responsibilities. An employee that has symptoms of COVID-19 or has simply been exposed to COVID-19 would not likely be eligible for leave under PFML or OFLA (at least yet!). See KeyNotes Washington Paid Family and Medical Leave and Oregon Family and Medical Leave Act for additional information.

Protected Paid Sick Leave: In addition to using paid sick leave due to an employee’s illness or to care for a covered family member, Washington and Oregon paid sick leave laws state that an authorized sick leave reason includes when the employee’s place of business has been closed by order of a public official for any health-related reason, or when an employee’s child’s school or place of care has been closed for such a reason. Seattle’s Paid Sick and Safe Time (PSST) ordinance was amended in March of 2020 to state that an employee may use PSST if any family member’s place of care or school is closed. The amended law also makes a distinction for Tier 3 employers that must allow an employee to use paid sick leave when the employer reduces operations, rather than just a business closure. See KeyNotes Washington Paid Sick Leave and Oregon Paid Sick Time for additional information.

Americans with Disabilities Act (ADA): Employers are required to reasonably accommodate employees under the Americans with Disabilities Act (ADA) and state disability laws. Protections under ADA may include those “high risk” for the virus, or those with a medical condition that may prevent them from wearing a mask or face covering. The interactive process requires both the employer and employee to engage in a discussion regarding what options could be considered to allow the employee to perform the essential functions of their job. The obligation to grant a reasonable accommodation under the ADA continues after an employee exhausts other protected leaves, such as FMLA or FFCRA leave. See KeyNote ADA Guide for additional information.

Washington Governor’s High Risk Proclamation: Under this proclamation, employees that are “at risk” or “might be at an increased risk” (as defined by the CDC) for COVID-19 may seek accommodation from their employer. Accommodations may include alternative work assignments, telework or remote work locations – or, when an alternative work arrangement is not feasible, a leave of absence. Employers must enter the interactive discussion with these employees to determine reasonable accommodation.

For more detailed information and FAQs about leaves during the pandemic, check out the Archbright blog here on our website. KeyNotes and sample policies referenced in this article are also available to eligible members on our HR Toolkit or the COVID Resources page on the Archbright website.

*Source: Joy Sturgis, Content Manager*

**“They Said What?” Navigating Politics in the Workplace**

With the presidential election fast approaching, employers are wise to prepare now for how political speech can impact the workplace. Whether employees use free speech arguments to disrupt work or customers take exception to employees’ politically charged social media posts, an employer’s response must be informed by an understanding of both compliance concerns as well as implications for employee engagement. Employers must know the parameters of free speech rights under the First Amendment and any applicable federal, state, and municipal protections.

First Amendment: The First Amendment, like the Bill of Rights, broadly protects individuals from “state actors.” Private sector employers are not considered state actors, which means they do not have First Amendment protections in the workplace (to put it simply, employees that work for a private employer do not have “free speech” protections in the workplace). Public sector employers (i.e., government employers), on the other hand, are considered “state actors” under the U.S. Constitution and actions they take can violate the law. Public sector employers must first consider whether the employee’s speech addresses a matter of public concern and then weigh that speech interest against the employer’s interest in restricting such speech.

National Labor Relations Act: Nonsupervisory private sector employees, whether they’re in a union or not, enjoy the right under Section 7 of that law to engage in concerted activities (concerted as in a concert of people) to discuss wages, hours, or other terms and conditions of employment. In general, trash-talking candidates is not protected; however, when employees start talking about how candidates will raise the minimum wage or improve their working conditions, that speech may, in fact, be protected concerted activity.

Political Ideology Protections: Although federal law does not have a specific protection for political ideology, some state and local laws must be considered. Washington State prohibits public sector employers from campaigning on company time. Oregon prohibits employers from discriminating against employees for signing initiatives, referendums, recalls, or candidate petitions, and Idaho makes it illegal for employers to influence an employee’s vote by threatening discharge. In the City of Seattle, “political ideology” is a protected class.

Employers must consider a myriad of issues. In addition to the compliance considerations, please note that these issues are often very sensitive to employees and can be emotionally charged, to say the least. There are seldom easy answers to the questions posed by politics in the workplace. Social media policies and policies on politics in the workplace help frame appropriate behavior in the workplace. Employers can take those policies and apply them to ensure behaviors remain within the bounds of company culture and what the law requires.

Eligible Archbright members are encouraged to contact the HR Hotline with any questions or to seek specific guidance. Also check out the blog posted on Archbright’s website for more information on this topic.

*Source: Mark Nelson, Senior HR Advisor*

**HR FAQ**

**Question:** We have an employee who is out on FFCRA leave because they were exposed to COVID-19 and have been advised to quarantine. They have been tested and are awaiting test results. We have been advised this employee was out socializing with other employees over the weekend instead. Can I fire this employee?

**Answer:** This is not a simple yes or no answer. If an eligible employee is on approved FFCRA leave, and they are able to provide appropriate documentation of that need for leave, the leave must be approved. In some states, terminating an employee for lawful off-duty conduct may be a violation of state law. Although Washington, Idaho, or Oregon do not have an off duty conduct law, employers must still proceed carefully when disciplining an employee for conduct away from the workplace. If an employer learns of an employee engaging in off duty conduct that makes the employee unfit for work or that could put other employees in danger, the employer should investigate before taking disciplinary action.

Before determining next steps in this situation, here are a few considerations:

Leave under the FFCRA is protected from retaliation.

When the employee went out on leave, was the employee informed they should not have contact with other employees due to the possible exposure to the workplace?

Was the social event sanctioned by work or a workplace supervisor? For example, was it a team happy hour or barbeque?

Could the employee have received confirmation of a negative test result before or during the weekend? Although CDC guidelines suggest an exposed individual should continue to quarantine for the remaining 14 days, if the employee received a negative test result, the employee may not have knowingly put others at risk.

Are the other employees that were socializing with the affected employee coming into the office to work? If those employees completed a daily screening survey that confirmed they have no known exposure to an individual that tested positive to COVID-19, the other employees may actually be in violation of your company policy if they were aware the individual may have COVID-19.

If the other employees were not aware of a potential positive diagnosis, you should handle as you would any other potential known exposure. Keep in mind, however, that employers may not release private medical information of an employee – so you may only advise the employee that you have reason to believe they may have been exposed to an individual that may be positive for COVID-19. You may then need to speak to the quarantined employee to determine which employees may meet the definition of exposure (within 6 feet for more than 15 minutes, per CDC guidelines).

There are dozens of questions and scenarios that could be considered in this situation. Each situation should be considered on a case by case basis with assistance from legal counsel. Eligible members are encouraged to contact an Archbright HR Advisor or legal counsel to seek specific guidance.

*Source: Joy Sturgis, Content Manager*

**Instead of Layoffs, Consider These 4 Changes to Your Total Rewards Plan**

Recent research from WorldatWork suggests the national average for pay increases will drop to its lowest projection in over a decade. After consistently averaging around 3%, many organizations now report that in response to the COVID-19 pandemic, they have significantly reduced their annual increase or eliminated it completely.

This comes as no surprise. The sudden and sharp decline for businesses during the past two quarters have left employers with few options to consider.

In spite of this reality, there are several actions to take now that can soften the blow to businesses as well as employees. But first, companies must ensure executive leadership is aligned with human resources and finance on key business objectives, including:

Short term and long-term survival,

Short term and long-term financial health,

Necessary measures to support workforce planning, including layoffs, schedule reductions, and how to retain and reward key talent.

Once short term and long-term initiatives are established, organizations can tackle workforce planning through key compensation and total rewards decisions. Below are 4 changes to consider. Not all suggestions on our list are appropriate for every organization, it is important that employers evaluate each approach based on their company’s current financial situation.

Make total rewards changes that minimize negative financial impact. This could include lowering an annual merit budget, temporarily eliminating annual bonus programs, or reducing the budget for additional headcount. Companies can save money and operational costs by diverting those funds to activities that generate business or conserve other resources.

Instead of layoffs, consider lowering hours. To avoid reductions in force and still provide hours for all employees, companies can lower hours in a workweek for hourly employees, reduce eligible overtime, and minimize additional compensation such as shift differentials. Also, encouraging employees to use PTO during slower times can also help balance the year’s financial performance and productivity measures.

Allow for regular pay increases for your high performing and high producing employees. Continuing to motivate your high potential and top-performing employees during the downturn can boost your organization’s productivity and speed up recovery. If funds are still limited, consider project-based bonuses, productivity bonuses, and recognition rewards or other incentives that offset long-term costs and boost near-term motivation and morale.

Shift total rewards budgets, such as annual bonuses, recognition budgets, and merit increases, to other programs. Consider offering additional days off or allowances to set up or improve a home office. These types of benefits can immediately and significantly improve motivation and employer loyalty. Note, these could have higher short-term costs that hit the budget sooner than a merit or bonus that comes later in the year or is recognized incrementally over time.

There are other options to consider as a last resort and require careful planning and clear communication. They include:

Reducing pay rates or salaries to conserve resources and lower costs. Whether a temporary or permanent measure, the impact on your employee’s motivation and loyalty must be carefully considered before proceeding with reductions in pay.

Reductions in force through furloughs or layoffs. The decision to separate employees will always be a difficult one that impacts all employees, regardless if they remain employed at the organization. Archbright has a number of resources available on our COVID-19 Resources page to help including the recording of our webinar Managing a Reduction in Force During COVID-19: What Employers Need to Know as well as related KeyNotes.

During this time of uncertainty, it is essential for a company’s leaders to be transparent about their specific plans to address any financial hardships. This empowers employees and helps them put plans in place, especially if they will see significant changes in their pay. It can also lead to increased loyalty and productivity over the long-term.

Archbright’s HR and Compensation Consultants can help you evaluate your options to ensure your company not only survives the economic downturn, but is well-positioned for a strong recovery and rebound. For more information, reach out to info@archbright.com, 206.329.1120, or 509.381.1635.

*Source: Joe Padilla, Sr. HR Consultant*

**Do Employees Need to Wear a Mask When Working Alone?**

Last year, Archbright launched the Safety Hotline to all members, similar to the popular Archbright HR Hotline, but geared towards workplace safety compliance and best practices. Members can contact experienced Safety Professionals on the phone or through email for expert advice and resources. One of the most popular questions our Safety Consultants are currently receiving from members right now is “when are employees considered to be working alone, and what mask requirements apply to them”?

First, let’s look at what it means to be working alone. Washington Labor & Industries (L&I), considers someone to be working alone when the worker is isolated from interaction with others and has little or no expectation of in-person interruption. How often a worker can work alone through the day may vary, and examples of working alone include:

* A lone worker inside of an enclosed crane or heavy equipment cab or vehicle
* A person by themselves inside of an office with four walls and a door
* A lone worker inside of a cubicle with four walls (with an entry) that are high enough to block the breathing zone of anyone walking by
* A worker who is working outdoors in an open area such as a field or woods with no anticipated contact with others

If a worker is determined to be working alone by the above definition, then L&I has concluded that the worker does not need to wear a face-covering for protection against COVID-19. However, L&I does still strongly recommend that workers wear face-coverings in case of an unanticipated encounter with another person. Furthermore, if the employee leaves their isolated area or is going to be in contact with others, or moving in areas where others are working, then the employee must wear a face-covering. Employees who have exposure to chemicals above permissible exposure limits or other atmospheric hazards also must still follow any applicable respirator requirements. L&I has released an easy to use, interactive mobile etool to help guide employers of choosing the right mask for the task at https://content.govdelivery.com/accounts/WADLI/bulletins/29aec55

Another thing that employers should also be aware of is that there is growing evidence that there may be a connection to ventilation systems and the spread of COVID-19. Some studies are showing that the virus can remain airborne longer than initially thought, which allows for ventilation systems to spread the virus around the room or even to other parts of the building. For employees working indoors, this could be of concern. The Centers for Disease Control and Prevention (CDC), has updated their recommendations for office buildings to help reduce the spread of COVID-19 including checking for proper ventilation system operation, increasing circulation as much as possible, increasing the percentage of outdoor air and airflow, and disabling demand-control ventilation (DCV) controls that reduce air supply based on temperature or occupancy. Employers should also consider the use of portable high-efficiency particulate air (HEPA) fans or filtrations systems or the use of ultraviolet germicidal irradiation (UVGI) to help reduce aerosol transmission of the virus. Lastly, concerns about an employer’s ventilation system may be a reason to require employees who are working alone indoors continue to wear face-coverings as an additional preventative measure.

Employees who are requesting a face-covering medical or disability accommodation must provide employers with an accommodation statement from their Healthcare Provider stating that a face-covering cannot be worn due to a current health condition. Employers cannot allow employees to work without a mask, mitigation, or accommodation. Employers must engage in an interactive process with the employee to determine if a reasonable accommodation may be made under the Americans with Disabilities Act (ADA) for the employee to perform the essential functions of their job. It is important to note, however, that simply not wearing a mask in the workplace would not be considered a reasonable accommodation.

Eligible members are encouraged to contact the Archbright Safety Hotline or HR Hotline with additional questions or to seek specific guidance.

*Source: Tiffany Knudsen, Content Manager*

**Safety & Health Webinars**

**Safety awareness tips, compliance information, and tools to take safety programs to the next level!**

Archbright’s extensive safety & health webinar library is available to all members. Our Safety, Loss Control, and Workers’ Compensation experts record monthly webinars that employers can use to build, or update, required written safety programs and establish best practices.

Topics include:

* COVID-19 Safety Program Requirements
* 8 Essential Elements of Safety Series
* Required Written Programs
* Safety Train the Trainer Topics
* Employee Safety Engagement
* Claims’ Financial Impact
* Retrospective Rating
* And More!

Most webinars are designed in conjunction with sample templates and tools for employer implementation. Contact safety@archbright.com for more information about this webinar library!