



# Insights

AUGUST | 2022 Newsletter



## Don't Overlook Learning and Development at Your Organization

At Archbright, we help organizations provide professional development opportunities to their employees through public classes and private team trainings. Explore the Archbright University calendar and you'll find many virtual and in-person classes on a variety of topics open for registration. With your member discount, the price of a quality, impactful training experience is even more budget-friendly. And if you're a Silver or gold member, don't forget to use your public training credits before they expire at the end of the year!

**Featured Class:** For anyone looking to level up in their HR career, earning a Professional in Human Resources (PHR®) or Senior Professional in Human Resources (SPHR®) certification is the way to go. Archbright has a program to help you get test ready. Our [PHR/SPHR Certification Exam Prep Program](#) starts on September 1 and is a 12-week program that covers the six functional areas of the PHR® and SPHR® exam. Plus, you get \$50 off the cost of the certification exam, just for being an Archbright member. This is the last session of the year! [Sign up today](#) to reserve your spot.

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## LOOKING AHEAD

# CEO Corner



**Shannon  
Kavanaugh**

President and CEO at Archbright

## Access 2022 Wage & Compensation Survey Data Through mozzo

Earlier this summer, we launched an exciting new feature in mozzo to provide greater access to Archbright's Wage & Compensation Survey results.

Our new Salary Survey Tool allows eligible mozzo users to:

- **Pull data for specific jobs.** Rather than reviewing the complete report, simply enter the job title to see the full compensation report for that role.
- **Download, save, and share reports.** For easy referencing, we recommend you save your reports in mozzo to revisit whenever you need to. (You can share reports with other mozzo users as well.)
- **Tailor the information to meet your needs.** All positions can be viewed by base salary or total cash compensation. If enough pay data has been gathered for the job, you will also be able to filter by region, industry, revenue, and type of organization.
- **View compensation data in relation to company size.** This feature can help you to evaluate what comparably-sized companies offer for similar roles.
- **View compensation amounts for similar jobs.** You can also find direct links to other similar positions on the compensation report.

The Salary Survey Tool is currently available to the primary mozzo user at Bronze, Silver, and Gold members who have already submitted their 2022 salary data. (Primary mozzo users are able to grant access to other mozzo users in their organization.)

If you did not participate in the Wage & Compensation survey this year, you can add your organization's salary data and gain access to the Salary Survey Tool at any time.

To get started, contact us at [info@archbright.com](mailto:info@archbright.com). Our Member Services Team is ready to assist you.

## UPCOMING EVENTS

### LWHRA Symposium Breakout Session

Sept. 13, 9:45-10:45 AM | Meydenbauer Ctr, Bellevue, WA

### Looking Beyond the Pandemic: The Top Five Non-COVID-19 Employment Law Updates

For the last two years, the pandemic put HR Professionals' expertise, stamina, and patience to the test through ongoing COVID-19-related work rules, regulations, and the need for constant policy review and revision. This session will address current employment and labor law updates outside of pandemic-related issues. There are noteworthy and critical updates in Labor, Pay Equity, Wage/Hour, OFCCP, and employee agreements.

Presented by Ben Eckhart, Attorney

This is just one of many informative presentations at the LWHRA Symposium. For more information on the event or to register, visit <https://www.lwhra.org/2022-symposium>.



### WSHRMA Chapter Meeting

Sept. 14, 8:00-10:00 AM | Virtual

### Labor and Employment Law Update

Join us for an update on recent developments in labor and employment law for Washington State and at the federal level. We will discuss recent court decisions, new laws, and agency trends.

Presented by Beth Tuschner, Attorney

For more information on the event or to register, visit <http://www.wshrma.org>.



## All-New Managing Leaves & the Law Class Launches This Month

A new class is coming to Archbright University to help HR professionals sort through the many layers of federal and state employee leave laws.

We designed [Managing Leaves and the Law](#) to assist HR professionals with the process of identifying situations in which statutory or legal mandates will affect the course of action taken. It outlines the differences between FMLA, WPFML, and the ADA. The class also addresses all Washington State leaves, including Domestic Violence, Military, and Sick Leave. Previously, Archbright members could take Managing FMLA as a separate course. We are excited to now offer that material in conjunction with information about all leave laws.

Per [federal law](#), in order to be eligible to take leave under the FMLA, an employee must (1) work for a covered employer, (2) work 1,250 hours during the 12 months prior to the start of leave, (3) work at a location where 50 or more employees work at that location or within 75 miles of it, and (4) have worked for the employer for 12 months.

Because the law stipulates that a company must have 50 or more employees within one location for an employee to take leave under FMLA, this course has been divided into two sessions. Participants attending from member organizations with less than 50 employees and who are not close to becoming FMLA eligible, are advised to attend the morning session, which includes instruction about all leaves, including WPFML and ADA leave as an accommodation. Participants from companies with 50 or more employees (or fast approaching that number) are encouraged to sign up for the Extended Session, which will go into further detail regarding additional regulations that come into play with companies of that size.

Our all-new [Managing Leaves and the Law](#) will launch on August 29! Archbright University training credits are eligible for this course. For more information, please contact your Archbright Account Executive or visit [www.archbright.com](http://www.archbright.com) to enroll.



**Amy Bachmann** | Director of Sales and Training

## Upcoming Classes

For the complete course schedule, please go to [Archbright.com](http://Archbright.com).

- August 15 - [Diversity and Inclusion in the Workplace \(Virtual Class\)](#)
- August 16, 17, & 18 - [Supervisory Skills \(Virtual Class\)](#)
- August 19 - [First Aid/CPR/AED Certified Training \(Seattle\)](#)
- August 23 - [Discipline and Documentation \(Virtual Class\)](#)
- August 23 - [Holding Others Accountable for Great Performance \(Seattle\)](#)
- August 24 - [Understanding Workers' Compensation and Controlling Costs \(Virtual Class\)](#)
- August 25 - [Presentation Skills 101 \(Virtual Class\)](#)
- August 25, September 1, & 8 - [Supervisory Skills \(Virtual Class\)](#)
- August 26 - [First Aid/CPR/AED Recertification \(Seattle\)](#)
- August 29 - [Managing Leaves and the Law \(Seattle\)](#)
- August 30 - [Leadworker Effectiveness \(Seattle\)](#)
- August 31 - [Workplace Harassment Awareness \(Virtual Class\)](#)
- September 1 to November 17 - [PHR/SPHR Certification Exam Prep Program \(Virtual Class\)](#)
- September 7 - [Conflict to Collaboration \(Virtual Class\)](#)
- September 7 - [First Aid/CPR/AED Certified Training \(Seattle\)](#)

## How to Register:

**Register online anytime at [Archbright.com](http://Archbright.com).**

If you are an Archbright member, you will see the pricing for your membership level once you sign in and view the class details.

Visit our website to setup an account if you need one.

If you have any questions, please contact us at **206.329.1120, 509.381.1635, or [info@archbright.com](mailto:info@archbright.com).**



## HR ADVICE & COUNSEL

### The Biggest Remote Lessons for Employers

Before 2020, many employers reserved remote work for only rare or occasional circumstances. When COVID-19 hit, remote work became, in many ways, the most critical policy in HR's arsenal for keeping their organizations from failing. Even as employees have started returning to work, COVID and the economic forces impacted by it have compelled employers to reimagine the way they envision work. Employees have more bargaining power now than they've had in decades and demand remote work remain on the table. This is a good thing in many ways, but it's not without its challenges.

One unfortunate trend we've noticed on the HR Hotline is the always unsettling call from an Archbright member stating a remote worker moved out of state months ago without telling them. We recommend making it abundantly clear to your entire staff: Employees may not ask for forgiveness as opposed to permission when relocating out of state. Because employment laws typically apply in the state where the employee lives (as opposed to where the employer is headquartered), there can be significant issues of legal exposure when employees leave without telling their employer. For example, California requires employers to reimburse employees for all expenses incurred while they perform their job duties (including travel back to Washington, if it is at the employer's directive), in addition to unique payroll concepts like split-shift differentials, daily overtime, double time, pyramiding, and seventh-day premiums.

Even moves within Washington State can create issues. For example, if an employee relocates from Spokane to Seattle, that employee now has different rules for minimum wage and paid sick leave.

Another unfortunate trend we've noticed—again, with the potential for significant legal complications—is managers being ready to fire a remote worker without having made any attempts to turn the employee's performance around. An employee's physical absence from the office should not invite managerial shortcuts. In many ways, managers need to be more—not less—engaged with remote workers since it's not as simple as pulling them aside when you run into them in the office. To understand why this is so consequential, juries in employment disputes tend to put themselves in the employee's position and ask big picture questions like whether the employer treated them fairly—in addition to whatever the claim is before the court. If a remote worker didn't know they were underperforming, it's an uphill battle for the employer to argue they treated the employee fairly. Employers should always prepare to show that they took measures to counsel employees struggling with poor performance before moving straight to termination—whether remote or onsite.

Of course, no conversation about remote work is complete without discussing timekeeping issues. Tracking the hours of non-exempt employees who are working remotely can present many challenges. Some employees may not know that a small action like checking email from a smartphone outside of regular work hours must be logged as time worked. Managers contacting non-exempt staff after hours or HR having records showing employees logging in and out of the network without being paid can also add to the potential legal exposure. Employers should instruct their management staff that if they need to contact non-exempt staff after hours, they must ensure the employee logs the time. And a best practice is to periodically audit non-exempt remote employees' time worked compared to the time they're logged in to the network.

Time management issues also seep into the lives of exempt staff as well. The authors of a recent article in MIT's Sloan Management Review call it the paradox of remote work-life balance. Remote work can strip away commutes and other time-consuming obligations to free up more time for family. However, because the employee's home is now their office, they may feel compelled to remain available at all times. Ensure your exempt remote workers make a clean break at the end of the workday, just like your staff who leave the office when the day is over.



Archbright has an excellent Keynote, Working Out of State Checklist, that members should review before granting any remote worker permission to move.

If you have additional questions about your remote work policy or how to troubleshoot specific workplace issues, please don't hesitate to contact the HR Hotline at [hrhotline@archbright.com](mailto:hrhotline@archbright.com) or call 206.329.1120 or 509.381.1635 and select option 2. You can also sign in to mozzo and chat with an HR Advisor anytime between 8:00 AM and 5:00 PM PST.

**Mark Nelson** | Sr. HR Advisor

## Confidentiality During Workplace Investigations in Washington

In our May 2022 Insights newsletter, we told Archbright members about a new Washington law called the Silenced No More Act, which went into effect on June 9, 2022. The Act prohibits confidentiality, nondisclosure, and nondisparagement agreements between employers and employees regarding conduct that an employee reasonably believes to be illegal discrimination, harassment, retaliation, a wage and hour violation, sexual assault, or against a clear mandate of public policy. The law repealed former RCW 49.44.210 and replaced it with RCW 49.44.211.

Some employers have wondered how, if at all, the new law impacts confidentiality during workplace investigations. This question is particularly noteworthy because former RCW 49.44.210 had a carve-out specifically addressing and permitting confidentiality during ongoing workplace investigations. It was commonplace for employers to instruct complainants, witnesses, and the accused to keep the substance of the investigation confidential. The new law does not mention investigations.

### So, can Washington employers require confidentiality in workplace investigations following the Silenced No More Act?

Under the new law, employers cannot enter into “an agreement” with an employee that requires the employee not to discuss conduct that the employee reasonably believes to be illegal discrimination, harassment, retaliation, a wage and hour violation, sexual assault, or against a clear mandate of public policy. This broad language likely encompasses most types of workplace investigations. Additionally, it is a violation of the new law for an employer to even request that an employee enter such “an agreement.” Employers are further prohibited from discriminating or retaliating against an employee who discloses such conduct.

Although an instruction or request to keep a matter confidential (as opposed to a request to enter into an agreement) appears to be permitted, employers should proceed with caution in this realm as the request could be misinterpreted. Internal investigators acting on behalf of the employer should not require investigation witnesses to sign an agreement maintaining confidentiality. Also, if a verbal request is made but not honored, employers should refrain from taking any adverse employment action against an employee for discussing what the employee reasonably believes is illegal discrimination, harassment, retaliation, a wage and hour violation, sexual assault, or against a clear mandate of public policy.



**Beth Touschner** | Attorney

Penalties for violating the new law include liability in a civil suit for actual or statutory damages of \$10,000, whichever is greater, and reasonable attorney fees and costs. Out-of-state employers with Washington resident employees must also comply with the new law.

For more information or to learn more about the new law, contact the HR Hotline.

## HR FAQ

**Question:** We have an employee who is out on an approved leave under Washington’s Paid Family and Medical Leave (WPFML). We are maintaining their medical benefits coverage because their leave was also protected under the Family and Medical Leave Act (FMLA). They resigned three weeks after their leave started. Do we have to continue their benefits for the entire duration of their WPFML leave—even if they are no longer our employee?

**Answer:** Yes, employers must maintain benefits coverage if the employee qualified for benefits before termination. Whether the leave is continuous or intermittent, they are eligible for the duration of their leave (WAC 192-700-020).

Here is an example: An employee received approval from the Employment Security Department (ESD) for intermittent leave from March 1 to September 31 and resigned on April 1. If the employee claims intermittent leave for the entire 7-month period, the employer must maintain benefits until September 31. Suppose the employee takes a continuous leave and uses up their 12 weeks by June 15. In that case, the employer can end medical coverage on June 30, assuming their medical plan rules end coverage on the last day of the month following termination.

However, the only way for the employer to know if a former employee has exhausted their WPFML entitlement is by getting an update on the hours used from the ESD. Alternatively, the employer can require the individual to provide copies of the ESD verification, potentially on a weekly basis, so the employer has proof that they are continuing to file claims.

The requirement to maintain coverage is surprising to most employers since many feel the obligation ends when employment ends. Employers will need to vigilantly administer the leave and benefits to be compliant and avoid unnecessary costs associated with continuing coverage if it is no longer required.



**Kathy Iverson** | Sr. HR Advisor

## ARCHBRIGHT NEWS

### Get to Know Tasha Darling, Archbright's Director of HR Consulting



Tasha Darling is Archbright's Director of HR Consulting. She works with members to strategize, innovate, and implement HR solutions and provide advice, consultation, and support on various HR issues. Tasha joined Archbright in 2018 with 21 years of HR leadership experience in various industries. We sat down with her to get more insight into her role at Archbright and get advice for other HR professionals.

#### **Describe your job as the Director of HR Consulting at Archbright.**

I have several responsibilities as a leader with Archbright, but I spend most of my time in two areas. First, I am responsible for the Human Resources Consulting Team, which includes hiring the best HR talent in the market, in addition to the overall performance of the team. Secondly, I have an amazing opportunity to talk with our members through a "scoping" call when they have a need that falls into one or more of the Human Resources Consulting service lines. During that

conversation, I seek to understand the business problem, from a Human Resources standpoint, that is resulting in a need for HR support and then recommend a solution that will fill the gap and help to resolve the issue—both short and long-term.

#### **What is something you would like to accomplish in the near future in your role?**

As we've added new, amazing talent to the growing HR Consulting Team, I'd like to continue providing a consistent member experience related to the process and incorporation of the team's experience, both individually and as a whole, to ensure the members' expectations are being met or exceeded. Most recently, we welcomed an Associate HR Consultant to the team who will learn from the Senior HR Consultants and begin to focus on leading the Flat Fee Recruiting Service in addition to supporting the Consulting Team.

#### **What is something we might not know about your role?**

The role is unique in that it requires a vast knowledge of HR with many years of experience practicing HR but doesn't actually require me to do the HR work. Instead, I get to apply all of those years of expertise and HR knowledge to help fill a gap for members related to their HR function. The role relies on my years of experience and knowledge to offer solutions.

#### **What's the most exciting part of your role?**

I love connecting with members. Each member has a unique set of circumstances, and the conversations challenge me to organize and recommend a solution to meet each member's needs based on those circumstances. There are so many variations to consider, and each is different.

#### **What's the most challenging part of your role?**

So much of HR is about doing the right thing. It's critical to consider every member's unique needs to meet and exceed the expectations. Certainly, there are laws, policies, and compliance, which are critically important and incorporated in every recommendation, but an essential part of my role is communicating, connecting, and building authentic relationships with our members. This is a shared responsibility with the rest of my team, our Member Services Team, and other internal resources.

Read more from [our interview with Tasha on our blog](#), including Tasha's advice and tips for other HR professionals!

## SAFETY & LOSS CONTROL

### Oregon Adopts Permanent Heat and Wildfire Smoke Rules

As anticipated, Oregon OSHA announced the adoption of permanent safety rules to help protect workers from illnesses related to extreme heat and wildfire smoke. Following temporary emergency requirements that were in effect in 2021, permanent rulemaking was proposed in February 2022 after several months of input from community members and stakeholders. Oregon OSHA calls the permanent rules “the most protective of their kind in the United States.” The new rules are detailed below.

#### New Heat Illness Prevention Rule

Effective June 15, 2022

A major aspect of the new rule is that it applies to both outdoor and indoor work activities in locations where the heat index equals or exceeds 80°F. Some key components of the rule require that employers:

- Provide one or more shade areas to outdoor workers.
- Supply adequate drinking water at no cost to workers and allow the opportunity to drink the water.
- Implement an effective paid rest-break schedule when the heat index equals or exceeds 90°F for preventive cool-down periods.
- Ensure gradual worker acclimatization when working in the heat to help prevent heat illness.
- Implement a heat illness prevention plan, including required supervisor and worker training.

#### New Wildfire Smoke Rule

Effective July 1, 2022

The new rule applies to employers whose workers are—or will be—exposed to wildfire smoke where the ambient air concentration for fine particulate matter equals or exceeds an Air Quality Index (AQI) of 101. Employers can monitor their AQI at [airnow.gov](https://airnow.gov). Some key components of the rule require that employers:

- Monitor exposure and provide training for supervisors and workers.
- Implement an effective employer-employee communication system to relay information before workers are exposed to hazardous air.
- Implement safety controls such as relocating outdoor workers to enclosed buildings where the air is adequately filtered or making work schedule changes to perform outdoor work when there is better air quality.
- When the AQI is at or above 101, employers must provide a National Institute for Occupational Safety & Health (NIOSH) approved filtering facepiece respirator, such as an N95, to all exposed workers for voluntary use.
- When the AQI is at or above 251, employers must require exposed workers to wear a NIOSH-approved respirator and follow Appendix A instead of the full respiratory program (appendix A does not require medical evaluations and fit testing).
- When the AQI is at or above 501, in addition to requiring NIOSH-approved respirators, employers must follow medical monitoring, fit testing, and other elements of the Respiratory Protection Standard.

**Best Practices for All Employers** | All employers are responsible for protecting their employees from workplace hazards, and heat and wildfire smoke is no exception. Regardless of state rules, all employers should monitor temperatures and air quality at their worksites. When conditions are heading towards hazardous levels, employers should consider how long employees will be working in the environment, how physically demanding the work is, and if workers are at high risk due to preexisting health conditions. When the air quality is considered unhealthy or hazardous, employers can reduce risks by relocating workers, rescheduling work, reducing the level and duration of physically demanding work, and providing structures that supply filtered air.

Eligible members can find heat and wildfire smoke resources such as program templates and Quickstarts in the mozzo Resource Library and can contact the Safety Hotline with any questions.



**Tiffany Knudsen** | Content Manager



## mozzo MONTHLY UPDATES

### New Trainings Available in the Video Training Library

We added seven new microlearnings to the Video Training Library this month! Dive into the Video Training Library to expand your knowledge and share trainings with your fellow employees. We are continuing to add more trainings, so if you have any requests, reach out to us at [info@archbright.com](mailto:info@archbright.com).

- [Workplace Investigations Part 1—The Investigation Process](#) | When an employee breaks a rule, this typically calls for some type of workplace investigation. This course outlines the steps for conducting successful investigations. (Duration: 7 minutes, 6 seconds)
- [Workplace Investigations Part 2—Special Circumstances](#) | This course reviews special circumstances that can potentially change the investigation process, including considerations for union-represented employees, public employers, and government investigations. (Duration: 5 minutes, 18 seconds)
- [4-Step Coaching Process](#) | This course describes a coaching model that includes four steps and is designed to lower both an employee's natural defensiveness and resistance to change. (Duration: 4 minutes, 15 seconds)
- [Recordkeeping 101—Best Practices](#) | Knowing the specific procedures, legal guidelines, and reporting responsibilities for recordkeeping is an important part of securing sensitive information about both employees and the organization. (Duration: 3 minutes, 50 seconds)
- [Force Field Analysis](#) | Force field analyses can help individuals form new habits by separating all the factors involved and becoming clearer about the problem. (Duration: 3 minutes, 23 seconds)
- [Confined Space Awareness for Employees](#) | This course reviews the different types of hazards associated with confined spaces. (Duration: 6 minutes, 58 seconds)
- [Confined Space Entry for Authorized Employees](#) | This course provides a high-level overview of safety considerations for permit entry into confined spaces. (Duration: 8 minutes, 57 seconds)

Each person accessing this library must have a learner seat. Reach out to your Account Executive or to [info@archbright.com](mailto:info@archbright.com) for more information.



### Consumer Price Index

#### US Cities Average—June 2022

CPI-W: 292.542 + 1.569% (1 month change) + 9.808% (1 year change)  
CPI-U: 296.311 + 1.374% (1 month change) + 9.016% (1 year change)

#### Seattle/Tacoma/Bellevue—May/June 2022

CPI-W: 321.626 + 3.441% (bimonthly change) + 9.543% (1 year change)  
CPI-U: 326.656 + 3.201% (bimonthly change) + 10.144% (1 year change)

1982-84 Base; CPI-U = Urban Consumers; CPI-W = Wage Earners & Clerical Workers

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