



# Insights

JANUARY | 2022 Newsletter



## How Safe is Your Workplace?

Now is the time for employers to ask this question, especially as organizations revisit operational plans for the new year and in the midst of the COVID-19 pandemic. Workplace safety has never been more important, both for your business and for the health and wellbeing of your employees. Below are a few key ways to prepare your workforce, avoid employee injuries, and help keep your workplace accident-free.

**Safety Committees** | An effective safety committee unites workers and management in their commitment to workplace safety, based on the principle that creating and maintaining a safe and healthy workplace is a shared responsibility between management and the workforce.

**Health & Safety Inspections** | Effective health and safety inspections are one of the most important accident prevention tools. As part of a proactive injury-prevention plan, inspections reveal the current state of your workplace, help identify hazards, and prevent unsafe working conditions from developing.

**Noise Testing** | Noise-induced hearing loss is one of the most common work-related injuries in the United States. The intensity and duration of exposure are critical factors in evaluating the potential for employee hearing loss. Noises above 85 decibels are considered hazardous.

Improving your safety program reduces the risk of injuries, reduces turnover and absenteeism, increases productivity and quality, and lowers workers' compensation costs. Archbright's experienced Safety Team can help with all of the above and more. Contact us at [info@archbright.com](mailto:info@archbright.com), 206.329.1120, or 509.381.1635, to get started.

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## LOOKING AHEAD

# CEO Corner



**Shannon  
Kavanaugh**

President and CEO at Archbright

### Are Your Employees Engaged?

The Great Resignation has arrived and there is much debate about what is driving it—new priorities, better wages, or record burnout? Or is it the impact of employees who delayed their exit during the uncertainty of the pandemic? Does it vary from industry to industry?

More will be revealed in time. However, for those of us who want to continue to build and retain an engaged workforce right now, what do we do?

The first step is to understand the level of employee engagement in our organizations. This is essential in order to prepare for whatever comes next! If you have not yet conducted an Employee Engagement Survey, I recommend you consider one now.

Our **Employee Engagement Survey (EES)** is a measurement tool designed to uncover underlying disengagement within your organization and provide hard data that you can use to develop an action plan to resolve any issues found through the process.

#### We make it easy.

- We send an email to your employees, inviting them to participate on their computer or 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 can identify what departments, teams, or locations are the most disengaged in your organization and learn the unique set of drivers responsible. You can then strategize how to improve employee engagement and, in turn, performance.

Afterwards, we can help you create an action plan to combat the Great Resignation based on the current state of employee engagement at your organization and not on generalities.

To find out more, please reach out to your Account Executive, or contact us at [info@archbright.com](mailto:info@archbright.com), 206.329.1120, or 509.381.1635.

### Fact or Fiction: Learning How to Challenge Lip Service & DEI Data

The theme for this year's Northwest Diversity Learning Series is "Calling BS: Rejecting Lip Service, Demanding Accountability for Diversity, Equity and Inclusion". There are a total of six sessions, which will be conducted virtually.

Join the Institute for Sustainable Diversity & Inclusion (ISDI) for their first workshop of 2022, **Fact or Fiction: Learning How to Challenge Lip Service & DEI Data**, which will examine the data traditionally used for DEI and critically assess its effectiveness and impact on change.

**Date:** January 27, 2022, 9:00-11:30 AM (PDT)

**Presenters:** Jevin West & Carl Bergstrom

Register at: <https://www.i4sdi.org/s2-jan-27-2022>

Archbright is a proud sponsor of the Northwest Diversity Learning Series, currently celebrating its 24th year providing relevant, substantive, thought-leading, and cost-effective educational programming on diversity, equity, and inclusion for managers, and employees in the Puget Sound Region.

### Upcoming Webinars

Seattle SHRM and SHRM Olympia's monthly meetings are coming up. Ben Eckhart, Archbright attorney, will be presenting an employment law update at both meetings. This presentation will provide you an overview on all the updates and changes that you need to be aware of, including the latest legislation, to help your organization stay in compliance.

[Seattle SHRM, January 20, 11:30 AM-1:00 PM](#)

[SHRM Olympia, February 16, 8:00-9:00 AM](#)

For more information, and to register, please visit the SHRM chapter websites. We hope to see you there!

## Leadership Training in 2022: A Three-Tiered Approach

A recent [McKinsey & Company](#) study surveyed more than 190 HR leaders across multiple industries to determine how they intend to allocate spending over the next 12 months. 67 percent plan to spend less on permanent hiring. To make ends meet, companies will rely on internal talent and promote from within the organization. While this bodes well for employee engagement, "...new [research](#) suggests that managers who haven't received any management training are 36 percent more likely to leave their current jobs in the next year than managers who receive regular management training."

As we start a new year wrought with uncertainty, it's more important to invest in leadership training than ever before. With a three-tiered approach to address the needs of leaders at all levels of an organization, Archbright is ready to help.

### Tier 1: Training for Leads

New leads may find themselves overseeing a team without the organizational authority that a supervisor has or the skills needed to best succeed in their role. Archbright University's [Leadworker Effectiveness](#) is a one-day course, which will help leads build their confidence in giving feedback, managing relationships, and setting expectations. The next class is offered on [January 11](#) and more sessions are available every month throughout 2022.

### Tier 2: Training for New Supervisors and Managers

Archbright University offers three-day boot camps to train participants on essential soft skills, including feedback, coaching, delegation, and team building. To provide a more tailored approach, we have [Management Fundamentals](#) for managers who work in an office, and [Supervisory Skills](#) for supervisors and managers in manufacturing and warehouse settings. Both courses offer the same curriculum but are tailored to meet managers' unique needs and interests in different industries.

### Tier 3: Training for Seasoned Managers

[The Management Academy](#) is a cohort learning program designed for experienced managers. Participants attend class one half-day per week, which gives them the opportunity to put learned skills into action before returning to discuss results. Our next session begins on February 1, and it features all our brand-new curriculum—click [here](#) to learn more and to register.

Registration is now open for 2022 Archbright University classes, go to [Archbright.com](#) to register. For more information on all the Archbright University classes, consult the [Course Catalog](#) or contact your Account Executive.



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

## Upcoming Classes

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

- January 18 - [Discipline and Documentation \(Virtual\)](#)
- January 18 - [Workplace Harassment Awareness \(Virtual\)](#)
- January 19 - [Writing and Delivering Performance Reviews \(Virtual\)](#)
- January 19, 26, & February 2 - [Supervisory Skills \(Virtual\)](#)
- January 20 - [Emotional Intelligence at Work \(Virtual\)](#)
- January 20 - [Holding Others Accountable for Great Performance \(Virtual\)](#)
- January 20 to April 7 - [PHR/SPHR Certification Exam Prep Program \(Virtual\)](#)
- January 21 - [Managing Leaves and the Law \(Virtual\)](#)
- January 24 - [Conducting Effective Internal Investigations \(Virtual\)](#)
- January 24, 25, & 26 - [Management Fundamentals \(Virtual\)](#)
- January 25 - [First Aid/CPR/AED Certified Training \(Seattle\)](#)
- January 28 - [Change Management for Leaders \(Virtual\)](#)
- January 28 - [Hiring Practices for Equity and Excellence \(Virtual\)](#)
- January 31 - [Delivering Extraordinary Customer Service \(Virtual\)](#)
- January 31 - [First Aid/CPR/AED Recertification \(Seattle\)](#)

## How to Register:

**Register online anytime at [Archbright.com](#).**

You will need to log in to the website to register and see pricing for your membership level.

If you do not have an account on our website, it's easy to set up. Click on the **Sign In** button, then select **Sign up now** and follow the prompts.

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 AND COUNSEL

### COVID-19: What to Watch for in 2022

The start of a new year often represents a fresh start, the anticipation of renewed opportunities, attainable successes, and interesting challenges. However, this year, one subject will continue to impact individuals and businesses for years to come: COVID-19.

Various topics about COVID-19 have been at the forefront of news headlines globally for nearly two years. The virus's unpredictable and unprecedented impacts on the workplace have proven especially challenging for employers to navigate. Unfortunately, nobody has a crystal ball to anticipate precisely what new COVID-19 challenges will surface next. However, based on past trends and pending issues, we have compiled a list of things to watch in 2022:

- 1. Vaccine mandates.** The Occupational Safety and Health Administration (OSHA) "Vaccine or Test" Emergency Temporary Standard (ETS), the Federal Contractor Vaccine Mandate, and the Centers for Medicare and Medicaid Services (CMS) Vaccine Mandate have been challenged in the federal courts, put on hold, and in some cases, reinstated. Many are speculating that they could be placed on hold again. Washington and Oregon currently have vaccine mandates for specific industries and workers, and even more local municipalities are considering or implementing widespread mandates for all employers. It is important to note that even if a vaccine mandate does not cover an employer, they may still require their employees to get vaccinated as a condition of employment, provided they permit religious and disability accommodations as needed. Instead of waiting for a resolution on the vaccine mandates, employers are encouraged to – at a minimum – poll their employees on their vaccination status and begin collecting proof of vaccine. This critical first step will assist employers in adhering to a vaccine mandate or implementing their own vaccine requirement policy if so chosen.
- 2. Fully vaccinated definition to change?** The Centers for Disease Control and Prevention (CDC) currently defines "fully vaccinated" as two weeks following completion of both doses of Pfizer or Moderna or after a single dose of the Johnson & Johnson vaccine. Yet, in November, the CDC recommended that everyone 18 years or older receive a booster shot. Many public health officials wonder: is it time to update the definition of fully vaccinated to three doses? What will this mean for the administration of mandatory vaccination policies in the workplace?
- 3. Omicron variant.** The World Health Organization (WHO) has dubbed the COVID-19 Omicron variant as a "Variant of Concern," aligning it in the same classification as the Delta variant. Omicron cases continue to spread worldwide, reigniting COVID safety precautions and further bolstering the need for vaccines. Health experts continue to research Omicron to learn more about its severity and other attributes like transmissibility, vaccine effectiveness, and reinfection rate.
- 4. Travel restrictions.** There are a growing number of countries implementing border closures or changing travel bans, quarantines, and testing requirements to guard their citizens against the Omicron variant. International travel for business or pleasure over the coming months could be risky. Employers may consider postponing international business travel until worldwide conditions settle and request that employees planning personal international trips do the same.
- 5. Bargaining new union contracts.** Union employers with contracts set to expire in 2022 may consider proposing a mandatory vaccine policy during contract negotiations. Establishing a vaccine requirement in a new contract would avoid the hassle of reopening a contract to negotiate a mandatory vaccine program at a later time.

There will undoubtedly be other COVID-19 topics that arise during 2022. Archbright will continue to monitor the situation and keep members informed of the evolving COVID-19 landscape. In the meantime, members are encouraged to reference the mozzo Resource Library for COVID-19 tools and resources, including *COVID-19 Vaccine Confirmation Form*, *COVID-19 Employee Vaccine Tracking Template*, *COVID-19 Vaccine Mandates Tip Sheet*, and much more. For more information or questions about specific scenarios, please contact the HR Hotline.



Lindsey Sosa | Content Manager

## Extended Remote Working Creates Unique Issues for Exempt Employees

Many employees who are exempt from federal, state, and local wage and hour laws have been working remotely since the start of the pandemic. Since exempt positions often entail desk-based work that can be done from almost anywhere with a stable internet connection, employers have relied heavily on remote work during the COVID-19 pandemic to maintain physical distancing, alleviate quarantine requirements, and accommodate unvaccinated workers.

Employers are generally aware of remote work concerns for those non-exempt employees subject to wage and hour laws (e.g., ensuring that employees perform no work off the clock). However, employers are now encountering some unique issues related to exempt employees working remotely, including:

Outside salespeople who are primarily working remotely may no longer meet the requirements for an exemption. The outside sales exemption requires that the employee customarily and regularly works away from the employer's place of business. A fixed worksite—including a home office—is not considered working away from the employer's place of business. Instead, the employee must regularly make sales calls at customer sites to be considered engaged in outside sales. To maintain this exemption, employers will need to require outside sales employees to go back "outside"

again if customers or prospects are amenable to in-person sales meetings. If customers are remote themselves and prefer to conduct sales meetings virtually, employers may need to consider whether other exemptions apply. The retail sales exemption may be possible if the employee's pay is primarily from commissions and the employer is considered a "retail or service establishment."



**Erin Jacobson** | Director, Legal and HR Advice

Exempt employees who do not have access to an employer-provided workspace may not receive docked pay if they cannot work during their normally scheduled workday due to power or internet outages at their remote office. In this specific scenario, the office is considered closed for work. The employee is ready and willing to work but cannot do so due to the lack of connectivity in their home office and no alternate workspace. When the employee cannot perform any work due to office closure, the employer may not dock pay for this lack of work. If, on the other hand, the employer does have an alternate workspace available, the employer could require the employee to go into that workspace for the day. In that case, the employer could dock pay if the employee refuses to go into the office and instead opts not to work during the home office outage. See the next article for additional inclement weather scenarios applicable to exempt and non-exempt employees alike.

Remote work in other states—especially for exempt employees—is becoming more common, but employers have a lot to think about before approving extended out-of-state work. Generally, employers will need to comply with the business, employment, and tax laws of the states in which employees are living and working, regardless of whether such work is being done remotely for an employer based in a different state.

These are just a few of the unique issues that have arisen for Archbright members managing remote exempt employees this year. Eligible members are encouraged to access the mozzo Resource Library for resources designed to assist employers with remote employees, including *Remote Work Keynote*, *Overtime Exemption Checklist*, *Pay Docking for Exempt Employees Keynote*, and *Working Out of State Checklist*. Eligible members may also contact an Archbright HR Advisor with any questions through the HR Hotline chat feature on mozzo or by emailing [HRHotline@archbright.com](mailto:HRHotline@archbright.com).

## Oh, the Weather Outside is Frightful, but Remote Work is Delightful

It's that time of year again where we turn to thoughts of snowstorms, windstorms, and power outages. The focus this year for many employers will be shifting their inclement weather policies to account for remote workers.

For onsite staff, in the event of an office closure due to inclement weather, non-exempt employees are only required to be paid for hours worked—unless company policy or a union contract provides a more generous benefit. Similarly, if the office remains open and the employee elects not to drive due to unsafe road conditions, the time away from work may be unpaid. The employee may use an available balance of paid time off, such as vacation leave.

Exempt employees must be paid for any time missed unless the office is shut down for a full workweek and the exempt employee did not perform any work during that week. If the office remains open and an exempt employee does not report to work for any part of the day, the employee's pay can be docked for a full day if the employee did not perform any work during that day. Exempt employees must not receive a pay reduction for any partial day worked.

Employers who allow remote work when their office is closed are advised to have an established remote work policy with clear expectations for required approvals, working hours, childcare, etc. Employers should decide ahead of time how the company will handle the situation if the power goes out at the employee's house (e.g., if it's an office closure or a PTO day) or if the companies' servers or other technology infrastructure fails due to the weather.

A written policy will assist employers and employees in making quick decisions when faced with an emergency. A sample *Remote Work Policy* is available to eligible members in the mozzo Resource Library.



**Sarah Johnson** | Sr. HR Advisor

## ARCHBRIGHT NEWS

### Navigating Workplace Investigations

Workplace investigations can be challenging to navigate for many reasons. They are often unpredictable, time-consuming, and highly sensitive. Although one of the top priorities for an organization should be to maintain a safe workplace that prevents the need for workplace investigations, issues may still arise, even at the most prepared organizations.

Choosing the right investigator is very important. You need someone who is credible, respected, fair and impartial, and knowledgeable about employer policies and employment laws. Hiring an investigator that is outside of your organization, helps to avoid potential biases that may arise from an in-house investigation and also saves yourself time from the often-lengthy process. Let us take on the task that most HR professionals dread. With our team's extensive experience in workplace investigations, you can trust us to manage the investigation swiftly and effectively.

We chatted with Erin Jacobson, Archbright's Director of Legal and HR Advice to shed more light on workplace investigations and how we can help.

#### Q&A with Erin Jacobson, Director, Legal and HR Advice

##### What are the most common reasons for workplace investigations in 2021?

The reasons are relatively wide ranging, but they generally involve some form of alleged harassment or discrimination. We have also investigated several allegations of bullying and retaliation this year.

##### What do you wish members knew about investigations?

They are rarely simple or straightforward! What might begin as a single allegation can quickly morph into other concerns that the employer may not have even known about. While this can be frustrating for the employer, it is actually a good thing. It's better that the employer learn about all of allegations while they still have an opportunity to correct any valid problems or address any misperceptions that have resulted in invalid allegations.

##### Why should members have Archbright conduct their investigations?

There are several circumstances where employers may want to consider a third-party investigator like Archbright. Typically, this would be when the complaints involve a high level executive or manager, causing Human Resources to feel conflicted out of conducting their own internal investigation. Or it could be simply because there are no internal individuals who are trained, or have the time, to conduct a prompt and thorough investigation. Archbright investigators are all attorney-trained to methodically follow the unexpected twists and turns that often arise and produce impartial findings on which employers can rely.

If you'd like to learn more about this service, please reach out to us at [info@archbright.com](mailto:info@archbright.com) for more information.



#### ARCHBRIGHT ALSO HAS RESOURCES AVAILABLE FOR MEMBERS TO CONDUCT THEIR OWN INVESTIGATION:

- Through Archbright University, we offer the course, [Conducting Effective Internal Investigations](#) which provides practical and timely information for employer representatives to handle a workplace complaint and conduct an investigation. We have upcoming sessions on [January 24](#), [March 18](#), and [June 30](#). This course is pre-approved for HRCI credits.
- In the Resource Library in mozzo, check out these resources pre-approved by experts, *Workplace Investigations* (keynote), *Employer's Guide to Discipline*, and *Weingarten Right: a Represented Employee's Right to a Union Representative During an Investigatory Interview*.

## SAFETY AND LOSS CONTROL

### COVID-19 and OSHA Logs

Many employers know that if they have more than ten employees or work in a high-risk industry, they must keep an OSHA 300 Log. OSHA 300 Logs are a written record of serious work-related injuries and illnesses. Under the Occupational Safety and Health Administration (OSHA) rule, affected employers must record serious work-related injuries and illnesses within seven days of the incident. Serious injuries and illnesses include treatment beyond first aid, cases that involve days away or restricted work, a loss of consciousness, death, needlestick injuries, hearing loss, or a significant illness diagnosed by a healthcare provider. Employers do not need to track minor first aid injuries on the Log. Although many employers are experts at maintaining their Logs, they may still have questions about recording COVID-19 cases.



*Tiffany Knudsen* | Content Manager

In 2020, OSHA released guidance concerning the recording of occupational illnesses, specifically COVID-19. Under OSHA's updated recordkeeping requirements, COVID-19 is a recordable illness, and employers are responsible for recording the case if:

- The case is a confirmed case of COVID-19, as defined by the Centers for Disease Control and Prevention
- The case is work-related as defined by 29 CFR 1904.5[3], and
- The case involves one or more of the general recording criteria such as treatment beyond first aid, days away or restricted work, a loss of consciousness, death, or is diagnosed as a significant illness by a healthcare provider as outlined in 29 CFR 1904.7[b].

A case could also be recordable if the employee suffers a severe reaction to the COVID-19 vaccine and meets the recording criteria.

OSHA states that although they will enforce the recordkeeping requirements for employee COVID-19 illnesses, the recording of a COVID-19 case does not, by itself, mean that the employer has violated an OSHA standard. OSHA also states that employers with ten or fewer employees, and employers with no recordkeeping obligations only need to report COVID-19 illnesses to OSHA or their state-run agency if the COVID-19 case is work-related and results in a fatality, in-patient hospitalization, amputation, or loss of an eye. This applies to all employers regardless of size and industry.

If someone in the workplace is diagnosed with COVID-19, this is not automatic cause for recording the case in the Log. Employers only need to record work-related cases, as in an event or exposure in the work environment that either caused or contributed to the resulting condition or significantly aggravated a pre-existing injury or illness. The employer's responsibility is to identify the event or situation that led to the employee exposure, such as several employees getting sick with COVID after working in the same area.

A confirmed case is one that has been diagnosed using an FDA-approved laboratory SARS-CoV-2 RNA molecular amplification detection test. If an employee uses a home test or has not tested but has symptoms, they should follow up with their healthcare provider or clinic for molecular testing confirmation.

Don't forget! In addition to COVID-19 cases, affected employers must record all serious work-related injuries and illnesses that meet the recordkeeping criteria. Employers must post the 2021 OSHA 300A Summary Form (summary of 2021's Log) by February 1 in the workplace. Employers covered by electronic submission requirements must also submit their 300A Summary Form through OSHA's Injury Tracking Application (ITA) by March 2. Employers must maintain all OSHA 300-related forms for five years, in addition to a running log for the current year.

Members can find several helpful OSHA 300-related tools in the mozzo Resource Library. Eligible members who have questions about their unique workplace cases or who need help creating Logs for the first time are encouraged to contact our HR and Safety Hotlines.

### COMING SOON

We're launching an OSHA on-demand webinar for members to access in mozzo in January! More information is coming soon—we'll be announcing it in the mozzo weekly email that goes out every Friday afternoon.



## Consumer Price Index

### U.S. Cities Average—November 2021

CPI-W: 273.042    + 0.549% (1 month change)    + 7.571% (1 year change)  
CPI-U: 277.948    + 0.491% (1 month change)    + 6.889% (1 year change)

### Seattle/Tacoma/Bellevue—September/October 2021

CPI-W: 297.873    + 0.834% (bimonthly change)    + 6.325% (1 year change)  
CPI-U: 303.099    + 1.133% (bimonthly change)    + 6.536% (1 year change)

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

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We welcome your comments and suggestions.

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