



# Insights

JANUARY | 2023 Newsletter



## Archbright's WRPS Retro Group Earns Over \$700K Refund

We would like to congratulate the members of our Wholesale, Retail, and Professional Services (WRPS) Retro group on the program's performance this year! Together, the program earned over \$700,000, which was distributed to qualifying participants last month.

Qualifying participants were mailed their refund checks in December. If you have any questions about your refund, please contact us at [safety@archbright.com](mailto:safety@archbright.com).

We welcome other members who are in the wholesale, retail, or professional services industry to participate in our program. You too could earn a refund on your workers' compensation insurance for improving safety and claims management in your organization.

Contact your Account Executive or reach out to [info@archbright.com](mailto:info@archbright.com) for more information about the program and learn more about the qualification criteria for participation.

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## LOOKING AHEAD

# CEO Corner



**Shannon  
Kavanaugh**

President and CEO at Archbright

## How HR Pros Fight Isolation

"You can't be human in isolation," said Desmond Tutu, Anglican bishop and activist. This statement remains true...even in a work environment.

When studying the issue of isolation in the workplace, authors Emma Seppälä and Marissa King concluded in their research that burnout at work isn't just about exhaustion. It's also about loneliness. They determined that increasing someone's sense of belonging can help guard against workplace burnout.

As an HR pro, you are often the only one in your organization or a member of a small team, and likely understand the feeling of isolation that comes with being in HR. After surviving the pandemic and the Great Resignation, it is not surprising that 98% of HR pros have felt burnt out at work in the past six months.

That's where Archbright comes in. With your Bronze, Silver, or Gold membership, you get unlimited access to Archbright's HR Hotline. You can call or chat with our pros to get advice...or to bounce off ideas and talk through challenges you can't share with anyone else!

The HR Hotline is one of our most valued services amongst members. Recently, we were told, "Sometimes I need a seasoned person to be a sounding board or to provide some guidance. It's great to have that kind of support at my fingertips!" This is one tool you can use to avoid burnout—chat with a fellow HR professional!

There are three ways to access our HR Advisors: 1) Call 206.329.1120 or 509.381.1635, extension 2; 2) Sign in to mozzo and use the Advisor Chat feature; or 3) Email us at [hrhotline@archbright.com](mailto:hrhotline@archbright.com).

I started this with a quote, and I'd like to end with one too from Helen Keller: "Alone we can do so little; together, we can do so much." We are here for you!

## Welcome to Our New Members!

We are so grateful to our members who entrust us to help them navigate through safety, HR, and employment law matters.

As we kick off the new year, we'd like to give a warm welcome to our new members!

- Rainier Avenue Free Methodist Church
- Crisis Connections
- Portland Coffee Roasters
- Encore Architects
- Bellevue Arts Museum
- South County Fire
- Book-It Repertory Theatre
- Dispute Resolution Center of Thurston County
- Erin Air
- Loud Audio
- Alexandra Lozano Immigration Law, PLLC
- Volant Partners
- Tenants Union of Washington
- Thirdpower3 Corp
- Nelson Electric

## Develop & Enhance Your Everyday Practices to Foster Equity & Inclusion

Join the Institute for Sustainable Diversity & Inclusion (ISDI) on January 26, 9:00 AM to 11:30 AM (PST), for their first session of the Northwest Diversity Learning Series in 2023! This session will dive into the steps one can take every day to foster equity and inclusion.

Presented by Bernardo M. Ferdman, award-winning coach, former professor, native Spanish speaker, and principal of Ferdman Consulting.

For more information on the event or to register, visit <https://www.i4sdi.org/s1-jan-26-2023>.

Archbright is a proud sponsor of the Northwest Diversity Learning Series, currently celebrating its 25th year providing relevant, substantive, thought-leading, and cost-effective educational programming on diversity, equity, and inclusion for professionals in the Puget Sound Region.

# New Year, New You—Calling All Leaders

Happy New Year! 2023 is here, and for the first time in a long time, people can make plans and resolutions with more certainty. Travel is back in full swing, and families reunited over the holidays more than they have in years. January is typically a time for a renewed commitment to physical health. But what about healthy professional development? The last three years have strained leaders more than ever. The learning curve has been steep between learning to manage virtual teams and pivoting to online meeting platforms. Many leaders put their professional development aside to tackle more pressing issues. The new year is the perfect time to pick it back up to make it the best year yet.

Archbright University is ready, with [The Management Academy](#) kicking off on January 19. Don't miss this last chance to register to start the new year right!

The Management Academy is a cohort learning program for experienced managers to take their skills to new heights. Participants attend class virtually, one half-day per week for six weeks, allowing them to put learned skills into action before returning to discuss results with the cohort.

The modules in this program include:

- **Defining Myself:** Participants identify their strengths using the CliftonStrengths assessment and explore emotional intelligence.
- **Managing Myself:** Participants identify tactics to increase mindfulness to manage emotions in stressful situations.
- **Understanding Others:** Participants recognize sources of difficulty in communication using the Interpersonal Gap model. They practice active listening skills to manage relationships more effectively.
- **Developing a Team:** Participants outline the characteristics of a highly engaged team while assessing the current state of their own team.
- **Building a Business Case:** Participants conduct a current situation analysis, calculate Return on Investment (ROI), and outline the steps of a true business case.
- **Implementing Change:** Participants identify individual reactions to change and decide on appropriate leadership strategies to implement change within their own teams.

Don't miss this [last chance to register](#) for the January session! The Management Academy can also be held as a private team training, allowing managers to bond as they tackle the new year's goals. For more information, please contact your Archbright Account Executive.



Amy Bachmann | Director of Sales and Training

## Upcoming Classes

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

January 17 - [Emotional Intelligence at Work \(Virtual Class\)](#)

January 17, 18, & 19 - [Management Fundamentals \(Seattle\)](#)

January 18 - [Conflict to Collaboration \(Virtual Class\)](#)

January 19 to February 23 - [Management Academy \(Virtual Class\)](#)

January 23 - [Feedback for Success \(Virtual Class\)](#)

January 23, 24, & 25 - [Supervisory Skills \(Virtual Class\)](#)

January 24 - [Leadworker Effectiveness \(Seattle\)](#)

January 30 - [Change Management for Leaders \(Virtual Class\)](#)

January 31 - [Delivering Extraordinary Customer Service \(Virtual Class\)](#)

February 1 - [Workplace Harassment Awareness \(Virtual Class\)](#)

February 1 to April 19 - [PHR/SPHR Certification Exam Prep \(Virtual Class\)](#)

February 6, 7, & 8 - [Supervisory Skills \(Seattle\)](#)

February 6 & 7 - [HR Fundamentals \(Virtual Class\)](#)

February 6 - [HR Records: How, What, Where, Why \(Virtual Class\)](#)

February 9 - [Forklift Train-the-Trainer \(Virtual Class\)](#)

## How to Register:

Register online anytime at [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

# Re-Evaluate Your Independent Contractors This New Year

Independent contractors are integral to businesses. They are used to provide specific skills or experience, assist with limited-scope projects or initiatives, address a remote work arrangement, or transition an employee toward retirement. But, businesses that improperly classify workers as independent contractors rather than employees may be subject to litigation (individual and class action), administrative action, liability for back pay, liquidated (double) damages, and attorney's fees.

Unfortunately, no bright-line test exists to determine when a worker should be classified as an employee rather than an independent contractor. Federal government agencies such as the Department of Labor (DOL), the IRS, and some states, including Washington, have their own tests to determine independent contractor status. As such, it can be complex to classify a worker correctly. Employers should implement internal contracting policies and procedures and carefully review independent contractor roles using the rules outlined in each applicable federal and state law. Merely executing an "independent contractor agreement" or designating a worker as a non-employee because they requested the arrangement is insufficient; factors such as the worker's duties, degree of supervision, and income dependence must be analyzed to make a reliable determination.

**For minimum wage purposes, federal courts have applied the "economic realities" test and used the following factors to determine independent contractor status:**

1. The extent to which the services rendered are an integral part of the principal's business;
2. The permanency of the relationship;
3. The amount of the alleged contractor's investment in facilities and equipment;
4. The nature and degree of control by the principal;
5. The alleged contractor's opportunities for profit and loss;
6. The amount of initiative, judgment, or foresight in open market competition with others required for the success of the claimed independent contractor;
7. The degree of independent business organization and operation.

**The "right of control" test is applied to determine a worker's coverage under anti-discrimination laws and the National Labor Relations Act (NLRA). Those factors include:**

- The source of supplies and tools;
- The work location;
- The duration of the relationship between the parties;
- The company's right to assign additional projects to the worker;
- The extent of the worker's discretion over when and how long to work;
- The payment method, whether by time or by job;
- The worker's role in hiring and paying assistants;
- The regular business of the company and whether the work performed is part of that business;
- The company's status as "in business";
- The worker's eligibility for employee benefits; and
- The worker's tax treatment.

**Washington courts have adopted the economic realities test when applying the definition of a worker under the Minimum Wage Act and have set out six factors to consider:**

1. The permanence of the working relationship between the parties;
2. The degree of skill the work entails;
3. The extent of the worker's investment in equipment or materials;
4. The worker's opportunity for profit or loss;
5. The degree of the alleged employer's control over the worker; and
6. Whether the service rendered by the worker is an integral part of the alleged employer's business.

Even if a worker is properly classified as an independent contractor under the Washington State test, employers may still need to pay workers' compensation and unemployment insurance premiums, which use even more restrictive tests.

In addition, independent contractor status is not a defense against a discrimination or harassment lawsuit under Washington law. The Washington Law Against Discrimination allows independent contractors to sue contracting organizations for discriminatory acts.

Eligible Archbright members can find a comprehensive checklist within the *Legal Issues Involving Independent Contractors Keynote* in the mozzo Resource Library. Members are also advised to contact the HR Hotline for legal counsel guidance on proper classification.



**Ben Eckhart | Attorney**

# Building the Relationship with Direct Reports

The new year is a welcome time to take stock and refresh management practices. With staffing challenges and knowledge that positive employee relations are crucial to retaining employees, managers everywhere may be thinking, “what can I do to best support and retain employees, both for their success and for the organization’s bottom line?”

Here are some tips for the three C’s where you can cut, continue, and create your management practices to see a marked improvement in your business results.

**Cut** | Discontinue activities that do not add value and that employees do not enjoy. This will vary by team and organization. Are there weekly team meetings that are lengthy and do not accomplish much? Consider weekly or biweekly one-on-one meetings, and have a team meeting monthly if that makes more sense. Perhaps there is an “employee of the year” award that only one person can win. Efforts may be better spent rewarding more employees every quarter or through peer recognition. Some organizations have stopped formal performance reviews that many employees and managers dread, favoring tools like weekly feedback conversations and development plans.

**Continue** | Keep practices employees love. Maybe it is casual attire or quarterly get-togethers. If you don’t know which activities are valued (even if you think you know), conduct an employee engagement survey to gather that information.

**Create** | Proactive daily and monthly practices can be designed and carried out easily. Create a plan for yourself and your team around recognition, and don’t allow budget restraints to limit you. For example, you might maintain a “My Favorites” chart for the team. Employees can supply information about themselves, such as “How do I like to celebrate my birthday?” (responses may include cards, flowers, or not at all), favorite coffee drink, hobbies, and sports teams. Provided employees want to celebrate their birthdays, put the date on your calendar with a reminder a few days before. Birthday cards are inexpensive, and free or affordable e-cards for remote staff are easy to find.

Communication is key in any regular practice. As Susan Scott points out in her book *Fierce Conversations*, a conversation means exchanging “con,” which means “with” someone else, and those conversations form relationships. Direct memos with no opportunity for an employee’s response are simply a one-way “versation” and are not meaningful for anyone.

Managers sometimes respond to employees asking questions, “Go read the email. I can’t believe you didn’t read the entire email. You shouldn’t be asking me about this.” While the logic may be true, here is how feelings are impacted: the employee becomes a little bit sad and withdraws from the manager, and that pushes them away, eroding the relationship. Emotional intelligence experts refer to this type of response as a withdrawal from an emotional bank account. If this is a typical response, the account can soon become overdrawn, resulting in the employee quitting or disengaging.

It does not need to be this way! With a simple adjustment, you can make deposits into that same account. More productive ways

to respond to the employee might include: “Let’s read it together,” “How can I help you understand?” or “What else do you need to know?”

Employees who are informed and feel heard trust their manager more and better understand expectations. If there needs to be a difficult conversation, it is a lot easier when the relationship is already respectful and based on trust.

Be sure to spend even a brief amount of time preparing your new approaches at the beginning of the year and a few moments each week supporting your plan. A few small acts here and there throughout the year will pay dividends in building positive relationships with your employees.



**Bridget Frolich** | Sr. HR Advisor

**HR FAQ** | **Question:** Our company is based in Washington, but we have employees who live and work in another state. They travel to our Washington office 2-3 times per year for training. How do we know what state to consider as their “home” state for purposes of sick leave, paid family and medical leave, and other state-specific benefits and laws?

**Answer:** This can be a complex analysis depending on the specific circumstances and which laws are in question. Each situation must be addressed on a case-by-case basis. In an [Administrative Policy that explores Minimum Wage Act applicability](#), Washington Labor and Industries (L&I) references factors that help determine which state has the most “significant relationship” to an employee. The factors include but are not limited to, the location of the employee’s residence, the location of the employer’s base of operations, the location of the employee’s base of operations, the location of the start and end of a work trip, and the location of most work activities. In the Administrative Policy, there are example scenarios to help employers apply the factors to practical situations. One such example indicates that in the original question, the employee would likely NOT be considered a Washington-based employee for purposes of the Minimum Wage Act because the majority of the work activities are performed outside of Washington. The employer would, therefore, not be required to offer the employee paid sick leave unless their “home” state requires it.

For Washington Paid Family and Medical Leave (PFML), the law states that all hours worked, both in and outside of Washington, count if the work is “localized” in Washington, if some work is performed in Washington and the employee’s base of operations is in Washington, or if there is no real base of operations and the employee lives in Washington.

Other state-specific factors to consider include income taxes, meal/rest periods, minimum wage, final pay requirements, and more. For a comprehensive list of considerations, eligible members may reference the [mozzo Resource Library for Working Out of State Checklist Keynote](#).



**Lindsey Sosa** | Content Manager

## ARCHBRIGHT NEWS

### Happy 2nd Anniversary to mozzo!

Can you believe it's been two years since we introduced mozzo? Since its inception, we've launched many features to help members achieve their goals through an easy-to-use platform. We are proud to continue providing easy access to these relevant and useful tools and resources:

- **Video Training Library:** With over 150 microlearnings on topics including management, HR fundamentals, professional development, and DEI, there is no shortage of learning opportunities for all levels of employees at your organization. You can view, assign, and share trainings, as well as create your own training tracks to support your organization's professional development objectives in 2023. Plus, all videos are available with Spanish subtitles!
- **Resource Library:** Access hundreds of forms, keynotes, sample policies and programs, training materials, and legal guidelines. All resources are vetted by our experts and available to download at any time. As our team adds and updates documents each month, these can be quickly accessed under the New and Recently Updated Documents tab in the library.
- **Job Description Builder:** With over 700 job descriptions to choose from, create customized and complete job descriptions. You can also use the builder to create light duty job descriptions.
- **Salary Survey:** Easily view the results of our 2022 Wage & Compensation Survey. Eligible members that completed the survey can view compensation amounts in relation to company size, pull data for specific job positions, filter the results for easier viewing, and more! If you did not complete the survey and would like to access the data, you can upload your organization's wage data. Contact us at [regionalsurveys@archbright.com](mailto:regionalsurveys@archbright.com) for more information.
- **Advisor Chat:** Get immediate HR or safety advice from a trusted advisor. Available every business day, you'll save valuable time and get the answers you need to quickly move past obstacles and simply get more done.

Don't forget to take advantage and get full mozzo access by downloading the mozzo mobile app! Get the same features as logging in through a desktop, but it's easier to use it on the go.

**Coming Soon:** The Safety Data Sheet (SDS) Tracker will be available to all members to help them manage their SDS, which are provided by manufacturers and include information on chemical hazards and the handling of that chemical. With this new tracker, members can upload and view their saved SDS in their library and print secondary container labels with GHS (Globally Harmonized System of Classification and Labelling of Chemicals), NFPA (National Fire Prevention Association), and HMIS (Hazardous Materials Information System) options.

We want mozzo to continue to be a helpful resource for you and your organization and welcome your feedback! Have an idea for a new mozzo feature or resource? Email us at [info@archbright.com](mailto:info@archbright.com).



## SAFETY & LOSS CONTROL

# OSHA 300: Tackling COVID-19 and Proposed Rule Changes

The Occupational Safety and Health Administration (OSHA) requires many employers to follow recordkeeping requirements, recording serious work-related injuries and illnesses on their OSHA 300 Log. Under OSHA's rule, affected employers must record applicable cases within seven (7) days of the incident. Serious injuries and illnesses include situations that require 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 have much experience maintaining their Logs, they may still have questions about recording COVID-19 cases as this is fairly new to the recordkeeping rules.

In 2020 OSHA updated its recordkeeping requirements to specify that **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 (CDC)
- The case is work-related as defined by [29 CFR 1904.5](#), 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](#).

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

An employee diagnosed with COVID-19 is not an automatic cause for recording the case on 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 condition. 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. Don't forget! In addition to COVID-19

cases, covered employers must record any serious work-related injury or illness that meets the recordkeeping criteria, including remote employee cases.

Employers must post the 2022 OSHA 300A Summary Form (summary of 2022'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 and a running log for the current year.

### PROPOSED RULE CHANGES

Employers may have heard that OSHA has proposed a new rule to amend the electronic reporting requirements. This proposal is slightly different from the rule proposed a few years ago that required all covered employers to submit all their OSHA 300 forms electronically.

Under the current proposed rule, establishments with 20 or more employees in certain high-hazard industries would still be required to submit their 300A Summary Forms electronically. However, the rule would expand to require establishments with 100 or more employees in the highest-hazard industries to submit their 300 Log and 301 Forms in addition to their 300A Summary. But, the proposal also includes language to exempt establishments from any electronic submission if they have 250 or more employees and are not in a high-hazard industry.

Archbright will continue monitoring the proposed OSHA 300 rule changes and alert members if requirements change. Members can find several helpful OSHA 300-related tools in the mozzo Resource Library, including *OSHA 300 Excel Recordkeeping Forms* and the *OSHA 300 FAQs*. Members will also find OSHA 300 microlearnings and a recorded OSHA 300 webinar in the mozzo Video Library. Eligible members who have questions about their unique workplace cases are encouraged to speak with an expert through the Safety Hotline or Advisor Chat on mozzo.



Tiffany Knudsen | Content Manager



## mozzo MONTHLY UPDATES

### Resources in mozzo to Assist You with OSHA 300

With OSHA 300 posting requirements around the corner and potential electronic rule changes coming in 2023, don't forget that mozzo contains many resources to make recordkeeping easy. Here are the key resources, we suggest you brush up on now.

#### In the Video Training Library, find:

- [Safety Webinar | Managing OSHA 300 Logs Likes a Pro](#): OSHA 300 recordkeeping can seem daunting, especially when trying to get it right. This webinar is designed to help you learn more about managing your log and take some stress out of this important task. Topics covered include recordkeeping requirements, how to complete all forms, understanding recordable criteria, including remote work and COVID-19 cases, and electronic reporting.
- [OSHA Part 1 - OSHA 300 Forms and Basics](#): Organizations that fall under OSHA's recordkeeping and reporting requirements must record serious injuries and illnesses on OSHA's 300 forms on an annual basis. This course outlines the forms that must be completed and the dates when they must be submitted.
- [OSHA Part 2 - OSHA 300 Log Recording Criteria](#): If you are one of the many employers required to maintain an OSHA 300 Log, this course will point you in the right direction. It outlines the definition of a recordable case, as well as when and how to record workplace injuries and illnesses on the OSHA 300 Log.

#### In the Resource Library, find:

- [OSHA 300 Excel Recordkeeping Forms](#): These are the required OSHA 300 Recordkeeping Forms. The excel document includes tabs with the 300 Log, 300A Summary, and 301 Incident Report.
- [OSHA 300 Recordkeeping Frequently Asked Questions](#): OSHA Recordkeeping is required for most employers with more than 10 employees. This FAQ guide covers the requirements of recordkeeping and document retention.
- [OSHA 300 Quickstart](#): Use this Quickstart Guide to understand the requirements of OSHA 300 Recordkeeping.
- [OSHA 300 Recording Criteria Decision Tree](#): Use this Recording Criteria Decision Tree when determining whether a workplace incident is recordable on the OSHA 300 Log or not.



### Consumer Price Index

#### US Cities Average—November 2022

CPI-W: 292.495	- 0.173% (1 month change)	+ 7.125% (1 year change)
CPI-U: 297.711	- 0.101% (1 month change)	+ 7.089% (1 year change)

#### Seattle/Tacoma/Bellevue—September/October 2022

CPI-W: 325.897	+ 1.002% (bimonthly change)	+ 9.408% (1 year change)
CPI-U: 330.173	+ 1.033% (bimonthly change)	+ 8.932% (1 year change)

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

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