To: **The HR Specialist**

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From: Business Management Daily

Subject: Practical HR strategies to boost your career

In The News ...

HR and business groups oppose banning noncompetes. In January, the Federal Trade Commission proposed a rule that would completely prohibit employers from requiring employees to pledge they won't work for competitors following termination.

An FTC statement announcing the proposed ban called noncompetes an "often exploitative practice that suppresses wages, hampers innovation and blocks entrepreneurs from starting new businesses."

The U.S. Chamber of Commerce last month vowed to sue to stop the rule from being implemented. A Chamber statement called an outright ban on noncompete clauses "blatantly unlawful." It said, "Congress has never delegated the FTC anything close to the authority it would need to promulgate such a competition rule."

The Society for Human Resource Management said completely prohibiting noncompete agreements is "overly broad" and would harm small tech firms and companies in emerging industries that rely on preserving their intellectual capital.

SHRM is urging HR practitioners to use the FTC's public comment period to explain how they use noncompetes to protect their employers' interests.

Online resource Read the FTC's proposed rule and learn how to submit comments at **tinyurl.com/FTC-noncompete-rule**.

In this issue

Make plans now for higher OT salary threshold

The U.S. Department of Labor has announced plans to raise the salary threshold that qualifies white-collar employees for overtime pay. With a notice of proposed rulemaking due in May, HR pros should start preparing now for changes that will probably have to be implemented by the end of the year.

The current salary threshold stands at $35,568 per year, or $684 per week. Under the Fair Labor Standards Act, white-collar workers who earn less than that qualify for time-and-a-half overtime pay when they work more than 40 hours in a workweek.

Depending on how high the salary level goes, many more of your employees currently classified as exempt executive, administrative and professional workers might qualify for overtime pay for the first time.

Those kinds of employees are typically low- and mid-level managers—the people who supervise front-line workers, roll up their sleeves to help when subordinates get slammed and stay late to finish up tasks that didn't get done before closing time. All those managerial extras often add up to long workweeks and, potentially, overtime hours.

How high could the threshold go? Last year, consensus among wage-and-hour experts had the DOL aiming for a number near $50,000

Continued on page 2

Prepare to pay more for health benefits in '23

The average per-employee cost of employer-provided health benefits rose 3.2% in 2022, according to the Mercer consulting firm's 2022 National Survey of Employer-Sponsored Health Plans, released in December. Brace for higher costs this year.

In 2021, insurance costs spiked by 6.3% as employees caught up on health-care needs delayed as a result of the pandemic. So 2022's more modest increase might seem like a return to normal. It probably isn't.

Typically, health-benefit cost growth runs higher than general inflation, which averaged about 8% last year. According to Sunit Patel, chief health actuary at Mercer, 2022 was an anomaly because employer health-plan sponsors hadn't yet felt the full impact of inflation.

In fact, employers that participated in the survey project an average health insurance cost growth rate of 5.4% this year.

Patel cautions employers to prepare for continued accelerated cost growth in 2024 and beyond.

"One reason cost growth lagged inflation [in 2022] is because health care providers typically have multi-year contracts with health plans," Patel said. "So although employers did not feel the full brunt of inflation immediately, it's very likely that inflation-driven cost increases will phase in over the next few years as contracts are renewed."

Total health-benefit costs per employee reached $15,013 on average in 2022. Organizations with fewer than 500 employees on average paid $330 more per employee than larger employers.

New overtime threshold

(Cont. from page 1)

per year. Surveys show employers generally support raising the threshold that much. However, some employee advocates have pushed for a higher threshold, perhaps $60,000 per year or more.

How HR can respond

HR will face pressure from senior leaders to come up with ways to avoid paying more overtime to white-collar management employees. Realistically, that boils down to choosing between four options. Prepare to do one or more of the following:

1. Increase salaries of current exempt employees to more than the new salary threshold. If the DOL's final rule sets the threshold at $50,000 per year, for example, raise the pay of white-collar exempts to at least that much. Then they won't be entitled to overtime pay.

2. Increase salaries by the amount employees normally receive through bonuses. If you're already paying more than our hypothetical $50,000 between salary and bonuses, you might as well do so in a way that pushes regular pay beyond the salary threshold.

3. Reclassify exempt employees as nonexempt and pay them hourly. Of course, you will still have to pay overtime when they work more than 40 hours in a workweek.

4. Increase staffing levels to eliminate unnecessary overtime.

Bottom line: All these options will require most employers to spend more money, either on salary increases, overtime premiums or additional staffing.

Online resource News of the pending overtime salary threshold increase appeared last month in the DOL's latest semi-annual regulatory agenda. Read it at **tinyurl.com/DOL-Fall-2022-agenda**.

Consider coverage issues when employees must travel to receive abortion care

The U.S. Supreme Court's June 2022 decision in *Dobbs v. Jackson Women's Health Organization* overturned a nationwide right to an abortion established 49 years ago by *Roe v. Wade*. In the wake of the *Dobbs* ruling, 13 states completely banned abortions and others announced plans to restrict when abortions would be performed.

As a result, women in many states now find it difficult or impossible to undergo the procedure.

If your organization operates in a state with a full or partial ban, it's likely one or more of your employees seeking an abortion will have to travel out of state to receive care.

Here is how to manage some of the complications employers face in the post-*Dobbs* era.

Health insurance coverage

Many employer-based health insurance plans cover all birth- and fertility-related medical needs, including miscarriages—and abortions. Check your plan documents to learn if your plan covers abortion services. Ask if your plan specifically covers costs associated with receiving out-of-state care.

If you have a plan that's geographically restricted, this may be a topic to address when you renew. Ask your broker if your carrier can add an exception that pays for the procedure in states where abortion remains legal. If you cannot find a health insurer willing to provide out-of-state coverage, you may consider covering abortion-related travel expenses yourself.

FMLA, PWFA coverage

Two federal laws may address access to abortion care. The FMLA grants time off for employees to deal with serious health conditions. The recently enacted Pregnant Workers Fairness Act requires employers to accommodate medical restrictions and complications during and after pregnancy. Both laws provide options for taking time off.

Under the FMLA, travel to and from medical services is eligible for unpaid leave. FMLA leave may also be available for employees accompanying a family member to a legal abortion clinic.

While the PWFA is new, it's conceivable that traveling for treatment of a complicated pregnancy necessitating abortion services would be considered a reasonable accommodation.

Other steps to take

Employees who take time off to receive reproductive care may face privacy issues if co-workers discover the reason. One way around that is to offer additional personal leave that all employees can use to receive health care, regardless of the purpose of the time off. Also consider offering travel stipends for out-of-state medical care, again without regard for the nature of the medical condition.

Advice: Check with attorneys in the states where you operate to see if your organization faces potential legal liability under new abortion restrictions.

Legally speaking: You can underwrite medical travel

In general, it is legal for your organization to pay travel costs associated with receiving medical care if your health plan covers medically necessary travel. If it doesn't, you can amend the plan to cover medically necessary travel.

Plan amendments should cover all medically necessary travel. Plan amendments will also necessitate amending your summary plan description and may require you to amend your summary of material modifications by the end of the plan year.

Employees should be able to substantiate their travel without providing intrusive details. "Travel for family planning purposes" or "travel for reproductive care" should suffice.

Even Marines must follow court orders: Grant grooming exceptions for religious beliefs

To reinforce cohesion and conformity, male members of the U.S. Marine Corps must keep their hair cut short and maintain a close shave. It's a group norm introduced as soon as recruits arrive at basic training.

Now a lawsuit by Sikh recruits has forced the Marines to accept that dress and grooming standards can't be so rigid that they discriminate on the basis of religion.

Recent case: Jaskirat and Milaap, both practicing Sikhs, wanted to enlist in the Marines. Sikhism requires men to refrain from cutting their hair or trimming their beards, and they must wear turbans. Recruiters told the men the Marines could accommodate their religious needs once they completed boot camp. However, their long hair, beards and turbans had to go during basic training.

The men sued to prohibit the Marines from forcing them to conform to grooming and dress rules that violated their sincerely held religious beliefs.

The Marines argued the basic training rules were critical to instilling *esprit de corps*. However, other evidence showed the Marines had already relaxed grooming rules for female recruits, who are allowed to pin their hair up during boot camp instead of cutting it. And men prone to ingrown hairs and painful razor bumps may be exempt from rules requiring a close shave.

The court ruled the men could begin boot camp without shaving their beards, cutting their hair or abandoning their turbans. (*Singh, et al v. Berger*, Federal Cir., 2022)

Advice: Feel free to set dress and grooming standards that reflect your organization's culture and priorities. However, be sure your policies allow for exceptions based on sincerely held religious beliefs and practices.

Pay for travel time to voluntary OT shift?

The Portal to Portal Act says time spent before and after employees perform their principal work activities does not have to be paid. That means you don't have to pay for employees' commuting time.

However, if an hourly employee must travel from one location to another to continue their principal activities during the workday, then that's paid time. But what if an employee completes a full shift at one location and voluntarily takes on an overtime shift elsewhere? Must that travel time be paid?

Recent case: Guards at a Michigan prison usually worked eight-hour shifts. They could also volunteer for extra shifts at a hospital where inmates were treated. It took about 20 minutes to drive from the prison to the hospital. When the prison refused to pay guards for traveling to the hospital, they sued. Their argument: They were working one continuous workday, so the travel time should have been paid.

The court disagreed, ruling that the end of each regular shift marked the end of the workday. The officers were entitled to overtime pay for voluntarily working at the hospital, but not for the time spent traveling there. (*Bridges v. U.S.*, Court of Appeals Federal Cir., 2022)

Legal Briefs

Harassment complaint doesn't put basic discipline off-limits

Sabina complained about a sexually hostile work environment at Black & Decker. Soon after she filed her complaint, she was docked a point for absenteeism. Too many points can eventually lead to discipline and termination, but neither happened to Sabina.

She sued, claiming the point deduction was retaliation for complaining about harassment. The company argued that—absent any discipline—it wasn't by itself a materially adverse employment action. The court agreed and tossed out Sabina's lawsuit. It said being assessed a point for poor attendance was unlikely to dissuade a reasonable employee from complaining about harassment. Therefore, it wasn't retaliation. (*Starzynski v. Stanley Black & Decker*, 2nd Cir., 2022)

The lesson: It's not retaliation to enforce basic rules. Remind supervisors they can and should apply work rules to all employees, even if they have filed discrimination or harassment complaints. Complaining isn't a disciplinary get-out-of-jail-free card.

In *every* case, document the details that led to discipline

Vulenzo, a Black forklift driver, was placed on a last-chance agreement for violating company rules against using a cell phone while operating dangerous equipment. The LCA called for his termination if he broke any safety rules within two years. Seven months later, Vulenzo was caught looking at a cell phone on his lap while operating the forklift. He was fired the next morning.

He sued, claiming non-Black employees had not been fired for the same or worse conduct. However, the company produced detailed records showing it fired everyone who violated last-chance agreements. Rulebreakers who hadn't been fired weren't on LCAs. The court tossed out Vulenzo's case. (*Blount v. Stanley Engineering*, 6th Cir., 2022)

The lesson: Ensure your disciplinary records capture all the details of the incidents that prompted discipline. Those records will come in handy if you must prove in court why you treated one employee differently than others.

Washington Report

Omnibus bill promotes mental-health coverage parity

Tucked into the mammoth omnibus government spending bill President Biden signed into law on Dec. 29 was a provision that expands the number of public employees whose health insurance plans must now cover mental-health services on a par with coverage offered for other conditions.

About one million workers and their families are expected to gain more comprehensive health benefits as a result. They were previously left behind when some government employers opted out of the 2008 Mental Health Parity and Addiction Equity Act. The law generally requires group health plans and insurance carriers that provide mental-health and substance-abuse treatment coverage to offer benefit limitations at least as generous as those offered for medical benefits. However, MHPAEA let state and local government employers forego the additional coverage if they chose, which 229 plans did.

Private-sector impact: Also included in the spending bill is a provision that urges federal agencies to continue efforts to enforce the MHPAEA. That may mean additional scrutiny if insurance claims for mental-health services are denied.

The Department of Labor is actively pursuing monetary penalties for group health plans that don't comply with the MHPAEA. Plus, the Biden administration wants to amend ERISA to allow a private right of action for individuals who are denied mental-health coverage.

Advice: Ensure your benefits administrator closely monitors mental-health coverage approvals and denials.

Spending bill delivered more funding to HR-related agencies

The omnibus spending bill also set the fiscal year 2023 budgets federal agencies have to work with through Sept. 30. Several of those whose work affects HR pros saw significant funding increases:

- The National Labor Relations Board budget grew by $25 million, for a total FY 2023 spend of $299 million. It's the first funding increase for the NLRB since 2014.
- The EEOC's budget grew by $35 million, for a total of $455 million. Congress urged the EEOC to use some of that money to increase enforcement of pay equity laws.
- On a related note, the Department of Labor's Wage and Hour Division received a $9 million budget boost, adding up to $260 million for FY 2023.
- OSHA picked up an additional $20 million, bringing its total budget to $632 million to enforce the Occupational Safety and Health Act.

HR Q&A: Fitness certifications

by Jon Hyman, Esq., Wickens Herzer Panza

Can we require fitness-for-duty clearance for health worker who just gave birth?

Q: A caregiver employee gave birth on Christmas Day. The day after, she asked to be placed back on assignment. The nature of work is providing care to senior citizens. Caregivers must be prepared to assist them with walking, lifting, fall prevention, etc., and the company requires the caregiver to be able to lift 50 pounds. The company is concerned that this caregiver may not be physically ready to work with the frail customers who depend on the caregiver for physical support. Can the company require a fitness-for-duty note, stating that the caregiver employee can lift 50 pounds, bend, push, pull, etc., from the caregiver employee's physician? — *Ginny, Georgia*

A: Here's how the FMLA addresses requiring employees to demonstrate their fitness for work: As a condition of restoring an employee on FMLA leave for the employee's own serious health condition, an employer may have a uniformly applied policy or practice that requires all similarly-situated employees (i.e., same occupation, same serious health condition) who take leave for such conditions to obtain and present certification from the employee's health-care provider that the employee is able to resume work.

An employer may seek a fitness-for-duty certification only with regard to the particular health condition that caused the employee's need for FMLA leave. The certification from the employee's health-care provider must certify that the employee is able to resume work.

The FMLA's required designation notice must advise the employee if the employer will require a fitness-for-duty certification to return to work and whether that fitness-for-duty certification must address the employee's ability to perform the essential functions of the employee's job. An employer may delay restoration following the leave only when the employer provided notice of such in the FMLA's designation notice.

If this is not an FMLA-covered employer or FMLA-eligible employee, or otherwise not FMLA leave, then I'd want to know how this employer handles return-to-work requests from other medical leaves with similarly disabling conditions. If the employer is not getting fitness-for-duty certifications across the board in all similar situations, then I'd think requiring one from this employee in this case would be pregnancy discrimination.

*Jon Hyman is a partner at Wickens Herzer Panza in Cleveland. You can read his popular blog at **www.OhioEmployerLawBlog.com**.*

Retirement plans defined: A lexicon of benefits options

Regardless of the kind of retirement plan your company offers, it pays to know what all the options are. Here are definitions of five basic kinds of retirement plans, as broken down by the nonprofit Employee Benefit Research Institute.

Note: There are lots of variations on these basic plans. Your retirement benefits provider can guide you toward the options most appropriate for your organization and employees.

Defined benefit plan

This is the traditional pension your grandfather had. A defined benefit plan is usually paid in the form of an annuity. The benefit is based on a formula, typically involving salary and length of service. Private-sector defined benefit pensions are usually financed entirely by the employer.

They're not "portable"—that is, they don't move with an employee from job to job.

Cash balance plans combine elements of both defined benefit and defined contribution plans (*see below*). However, they do so in a way that gives the employer a better projection of its future obligations. The employer usually contributes a defined amount each year, which guarantees that the account will grow by a fixed percentage annually.

According to August 2022 data from the U.S. Census Bureau, only about 13.5% of Americans have a defined benefit or cash balance retirement plan.

Defined contribution plan

Defined contribution plans are the most common kind of retirement benefit. Defined contribution plans don't guarantee any retirement benefit. Most often, contributions from both the worker and the employer finance the plan. The best-known defined contribution plans are 401(k)s and 403(b)s, both named after the Internal Revenue Code sections that authorize them.

The Census Bureau says 34.6% of Americans have defined contribution retirement accounts.

They let workers control how their contributions are invested. That gives employees more control over the funds, but it also carries more risk because funds may rise and fall depending on market performance. Benefits can be rolled over into other investments when workers change jobs.

IRAs & Keogh plans

As a benefits administrator, you're less likely to deal with these two kinds of retirement vehicles. However, your employees may hold retirement investments in them, which may factor into their retirement planning calculations.

- **Individual retirement accounts:** IRAs allow investors to contribute each year to an individual account.

  There are several different types of IRAs, and in recent years Congress has expanded them for nonretirement purposes (such as education). IRAs are typically used as a holding vehicle for money that is rolled over from another retirement plan upon job change, such as a 401(k).
- **Keogh plans:** Keogh plans are tax-deferred retirement accounts for self-employed workers or persons employed by unincorporated businesses.

The Census Bureau reports that 18.2% of Americans own IRAs and Keogh accounts.

Your new recruiting edge: Benefits that pay down student loan debt

Unless you work for a large corporation, you're probably getting squeezed in the labor market. With wages rising 7.3% last year, small and mid-sized employers might have trouble luring top talent with high starting pay alone.

Helping new hires pay off their student loans might be the recruiting advantage that makes you an employer of choice.

Candidates of all ages carry student loan balances. According to researchers with the Education Data Initiative, 34% of student loans are held by 18- to 29-year-olds, but 8.1% are held by people 62 years old and older.

It's easy to see why offering a benefit that reduces debt balances or helps employees contribute to their workplace retirement plan while paying down student loans might be attractive. Here's how your benefits plan can help:

Payments towards student loan balances. Employers can provide up to $5,250 per employee per year toward educational expenses, including repaying employees' student loan obligations. Employees don't pay federal tax on the benefit and employers can deduct the payments as a business expense.

Bonus: Employee educational assistance benefits can further reduce labor costs because you don't have to pay the employer's portion of FICA taxes when you make student loan payments.

Employers that want to offer the benefit must have a written education benefit policy and must notify employees.

Matching 401(k) contributions. Under the newly enacted SECURE 2.0 Act, beginning in 2025, employers will be able to offer matching contributions to an employee's 401(k) plan based on the employee's "matching" student loan payment. In essence, it's another way the employer can pay down student loan balances via the company match.

Advice: Consult your retirement benefits advisor to learn how to implement this perk.

Copy the text below and distribute it to the managers at your organization.

To: ______________________________
From: ______________________________
Date: February 2023
Re: When a new worker isn't working out

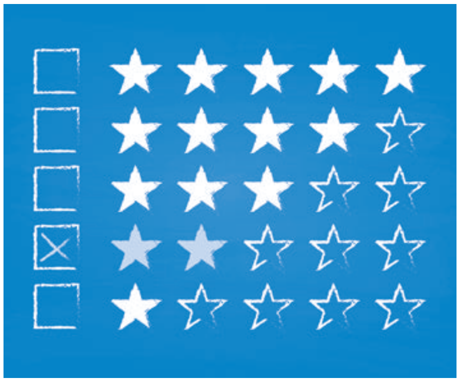
Fix it fast!

Worried about a new hire? 6 tips to salvage that employee

Most managers have faced this dilemma at least once in their careers: A candidate looks great on paper and gives a knockout interview, but two weeks into the new job, you're less than enthused. The new employee doesn't show that same initiative or smarts that you thought you saw in the interview.

You now have a choice: Cut your losses or run a salvage operation.

If you ultimately decide the employee definitely isn't right for the job, do both of you a favor and cut the ties soon (after discussing the matter with HR).



But maybe the employee shows promise and you're not ready to give up just yet. Here are tips to consider before pulling the termination trigger:

1. Rethink your expectations. Is the employee really wrong for the job? Maybe your expectations were too high. If the person wowed you in the interview, maybe you expected instant miracles. If so, re-examine your thinking.

2. Is it a matter of style? Perhaps the problem is how the employee operates—not what he delivers—that has you concerned. If so, have a heart-to-heart talk about your corporate culture and what you deem acceptable.

3. Ratchet up the training. When new hires don't fit, they may not understand enough about how the organization operates or what they're expected to do. Training can solve either problem.

4. Create a buddy system. Having a mentor is a critical help in navigating a new job. Consider pairing the new hire up with someone whose counsel she can seek.

5. Ensure clear expectations. Does the employee really know what you expect? A Day One run-through of the job description may have been a blur to the employee. Sit down and clarify in more detail what's expected in terms of quality and quantity of work, plus behavior.

6. Manage more closely. Employees in trouble need greater oversight than high achievers. For the salvage operation to work, frequent meetings detailing projects, deadlines and checkpoints will be crucial.

Final tips: When new hires go off-track so quickly, review the recruiting/hiring/training process with HR to see where it went wrong. See the box at right for some of the reasons. Unless you can identify where the disconnect occurred, it'll be easy to make the same mistakes again.

Also, consider whether anyone made promises of long-term employment during the interview process that could come back to haunt the organization. Does the employee have a contract (even an implied one) or bring along any key contacts from her past job that you can't afford to lose? These are topics to discuss with HR before cutting the worker loose.

And 7 reasons why managers make bad hiring decisions

Nobody sets out to make a bad hire. But it happens, even to the best hiring managers. According to the Korn Ferry consulting firm, here are the top reasons that companies make poor hiring decisions:

1. **Hiring managers rush the hiring process.** A systematic approach to staffing prevents hasty decisions and costly bad hires.
2. **You don't know what you're looking for.** First things first: Define the duties of the job and the necessary qualifications.
3. **You're looking for the wrong things.** Make a list of the characteristics you're looking for in each new hire.
4. **The best candidate doesn't know about the position.** Ineffective marketing might mean your competition is acquiring the best people.
5. **You base hiring decisions on "gut feelings."** They're unreliable predictors of success. Look for fact-based indicators of an applicant's past success.
6. **The wrong candidate didn't get enough information to say "No."** Better a candidate decides they don't want the job after the first interview than after the second week on the job. Provide a full view of the organization and position, even the more mundane parts of a job.
7. **You mistake credentials for accomplishments.** Don't be dazzled by diplomas, certifications and other credentials. Those are just pieces of the puzzle. Rigorous evaluation of candidates' skills and abilities prevents hiring poor performers.

by Elizabeth Weingarten

3 steps to solve an invisible DEI problem: Awareness

Leaders of top American companies say they're committed to making progress on diversity, equity and inclusion. And surveys show most employees want to work for organizations that genuinely believe in DEI. But the best intentions and wishes don't eliminate challenges.

New research conducted by Torch, the company where I work, suggests there is a gap in awareness between how well-meaning business leaders think they're doing on DEI and their actual progress.

Our survey of leaders (including HR leaders) across multiple industries found that both seniority and gender accounted for major differences in how well an organization was doing on DEI. Executives were far more likely than managers and men far more likely than women to report that all their organization's DEI goals had been achieved.

Three steps can help align leaders' thinking about their organization's DEI challenges.

1. Understand how identity can shape perception

Research shows that the more power an individual gains, the more distorted their sense of their organization's reality becomes.

For example, they may see more women of color at work and assume that demonstrates progress on representation. However, they may inadvertently discount the challenges those women face, such as an expectation that part of their jobs involves solving DEI problems in addition to doing their regular work.

Solution: Senior leaders can better understand the DEI reality by bringing people from underrepresented backgrounds and more junior roles into the DEI decision-making process.

2. Gather data and share it

Make it a priority to systematically gather data that provides evidence of the organization's DEI challenges and share the analysis with all employees.

For example, you might evaluate how regularly people from underrepresented groups get promoted compared with those in majority groups. Survey employees about key areas where they want to see DEI progress. Then, share results at all-hands meetings, providing space for discussion, feedback and ideas about how you'll take action.

This approach provides a shared understanding of DEI problems and helps ensure alignment before taking action.

3. Target mentoring, coaching

Coaching and mentoring programs can improve awareness of DEI issues.

Reverse mentoring programs, in which junior leaders mentor executives, can expose senior leaders to new perspectives.

Our research shows that coaching executives creates a ripple effect, with 42% of coached leaders reporting they have started coaching their own teams on DEI issues.

Our research found that organizations offering formal mentoring or coaching to underrepresented groups report reaching significantly more DEI goals compared with organizations that don't.

*Elizabeth Weingarten is head of behavioral science insights at Torch (**torch.io**), a company focused on unlocking the potential of people, teams and organizations. She leads Torch's development of strategy and creation of multimedia scientific content based on the firm's research insights.*

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Demographic decline: Millennials holding off on parenthood

Here's a trend that could affect when, how and how many employees participate in your benefits program. Millennials—currently between 26 and 41 years old—are waiting longer and longer to have children.

According to Ohio State University and University of North Carolina researchers, U.S. birth rates began declining sharply during the Great Recession of 2007 to 2009. The oldest millennials were 26 to 28 years old then. Once, that was a prime age for starting a family.

But a report in *Fortune* states, "In 2007, average birth rates were right around two children per woman. By 2021, levels had dropped more than 20%, close to the lowest level in a century."

The researchers hypothesize that millennials "see parenthood as harder to manage" than previous generations did. Perhaps the economic stress of the Great Recession made some of the traditional prerequisites for raising children seem out of millennials' reach—things like stable and well-paying employment and access to safe and affordable housing.

Millennials surveyed by the researchers said they still want to have children; they just don't want them yet.

Regardless of the reasons, a declining birth rate has implications for HR:

- In terms of health insurance, fewer employees will need or seek family coverage. Fewer insured children may have implications for how preferred provider organizations structure their care networks.
- Participation in both health-care and dependent-care flexible spending accounts may decline.
- Employees who see themselves as unlikely to be able to count on their children's help as they grow older may be motivated to save more aggressively for retirement. They may also be more inclined than other employee cohorts to seek out long-term care benefits.

Advice: Conduct your own employee census. How old are your employees? How many have kids? And does that differ by employee age? Have benefits participation patterns changed as millennials make up a larger portion of your workforce population? The answers may help guide your benefits planning.

State-based retirement plan mandates grow

More states are jumping on the auto-enrollment bandwagon to encourage workers to save for retirement. By the end of 2023, 15 states will have begun requiring employers that don't offer retirement benefits to automatically register employees for state-based 401(k) or individual retirement accounts.

According to the Congressional Research Service, these states require at least some employers to auto-enroll their workers: California, Colorado, Connecticut, Illinois, Maine, Maryland, Massachusetts, New Jersey, New Mexico, New York, Oregon, Vermont and Washington. Plans are set to begin this year in Delaware and Virginia.

In all those states, employees can opt out of participating if they choose. According to Georgetown University's Center for Retirement Initiatives, about 30% do.

In most auto-enroll states, employers manage automatic deductions of 3% to 5% of an employee's gross pay to be invested.

Note: Beginning in 2025, the newly enacted SECURE 2.0 Act, a federal law, will require companies with new 401(k) and 403(b) plans to automatically enroll employees into retirement plans at minimum contribution rates of 3% to 10%.

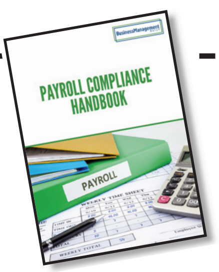
We've Made Payroll Easy Again!

You will not find a more comprehensive payroll resource than the ***Payroll Compliance Handbook***. The author, Alice Gilman, Esq., is our resident expert in payroll and tax compliance. Over the past 30 years, she's written and edited several leading payroll publications, including Business Management Daily's *Payroll Legal Alert*, the Research Institute of *America's Payroll Guide*, the *American Payroll Association's Basic Guide to Payroll and the Payroll Manager's Letter*.

The *Payroll Compliance Handbook* answers questions like:

- **Are your employees exempt or non-exempt?** A handy checklist makes it easy to determine
- **Must you pay an employee for attending a training program?** The answer may be no if these four conditions are met
- **How can you avoid the most common FLSA violation?** Simply follow our chart or be at risk for a hefty fine
- **A woman has less experience and education than a man in a similar role. Can you pay her less?** Plus, how to establish an equal pay merit system that works
- **Fringe benefits: taxable or non-taxable?** How to reward fringe benefits to employees without crossing swords with the IRS
- **W-2s, W-3s, 1099s and more: What errors will land you in the IRS hot seat?** We'll tell you how to avoid them
- **What's the law in your state?** Check out the appendixes for the requirements in your state.

To stay ahead of the IRS, you need the bulletproof strategies found only in the *Payroll Compliance Handbook*. Get your copy now!



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