

From: Business Management Daily

Subject: Practical HR strategies to boost your career

In The News ...

Require vaccinated staff to mask up, stay apart

As part of OSHA's new guidance (see page 2), the agency says that when it comes to setting COVID safety precautions in the workplace, employers should not distinguish between workers who are vaccinated and those who are not. OSHA recommends that both groups, for now, continue to wear face masks and remain six feet apart at work.



OSHA's reasoning: "At this time, there is not evidence that COVID-19 vaccines prevent transmission of the virus from person-to-person. The CDC explains that experts need to understand more about the protection that COVID-19 vaccines provide before deciding to change recommendations."

Attorney Devjani Mishra of Littler says, "It's tempting to see vaccines as a cure-all. But they are just one arrow in the quiver for employers, who must continue existing safety protocols."

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Offering vaccine incentives? Know the law

The quickest path to ending the pandemic is to get more people vaccinated, says the CDC. But according to one recent survey, 39% of Americans say they either "probably" or "definitely" won't get the COVID vaccine when it becomes available to them.

To overcome this hesitancy, more employers have begun offering workers incentives to get the vaccine. A recent Littler survey of 1,800 employers found that 33% of companies will offer paid time off for shots and 11% offer some other incentive, such as cash.

Examples: Kroger will provide a one-time \$100 payment for workers who roll up their sleeves. Darden Restaurants is giving two hours of pay for each dose of the vaccine.

If you are considering financial incentive, tread carefully to stay in line with federal law. Two key points:



If you offer vaccine incentives, offer the same perks to those who refuse to get vaccinated for legally protected reasons (disability, religion, etc.).

1. Make exceptions for disability and religion. Vaccination rules must have exceptions for employees' disabilities under the ADA and employees' sincerely held religious beliefs under Title VII. For this reason, if you are offering employees a financial incentive to get vaccinated, be prepared to offer the same exact incentive to those who refuse to get vaccinated because of one of these legally protected reasons.

2. Comply with EEOC wellness incentive rules. Under new EEOC *Continued on page 2*

Employee retention: 5 big trends for 2021



Josh Bersin

The pandemic changed every aspect of the workplace—including the way we nurture and retain employees. Here are five key trends for 2021 from well-known HR analyst Josh Bersin:

1. Employee experience is now a corporate strategy. Formal EX initiatives—everything from rewards to workplace design to management support—are more common these days. Comprehensive employee experience requires rethinking every minute in a workday and how to handle all types of employee feedback. This includes planning for the new workplace—a hybrid, post-COVID workplace with a variety of spaces to collaborate.

2. Employee listening and communications go big. In 2020, the C-suite got used to being on Zoom and opening other channels to get feedback. The trend will continue. Bersin's research says communication and authentic feedback are the most important HR practices right now. HR also moved from annual staff surveys to pulse surveys to analytics platforms.

3. Well-being lands in the boardroom. The corporate well-being market exploded in 2020. Now there are hundreds of coaching, fitness and mental health tools. Citizenship and social responsibility are a big focus, too.

4. Creating a learning culture. If a company doesn't have a learning culture that promotes individual growth,

Continued on page 2

Vaccine incentives

(Cont. from page 1)

rules, employers cannot offer any more than a “*de minimis* incentive” to encourage employees to participate in a wellness program, such as one that incentivizes COVID shots.

The EEOC does not define *de minimis*, but it uses the examples of a water bottle or a gift card of modest value as *de minimis*. It uses the example of a \$50 per month cut in annual health premiums, paying for an annual gym membership or an airline ticket as “*not de minimis*.”

In recent months, business groups petitioned the EEOC for more clarity about which vaccine incentives would cross the EEOC’s line. You can expect more clarity soon.

The bottom line: If you go the “bribe” route, make sure you follow the law. When in doubt, check with your attorney.

Online resource For advice on ways to encourage employees to get vaccinated, go to www.theHRSpecialist.com/vaccineincentive.

Employee retention

(Cont. from page 1)

business suffers. We are in the golden age of AI, technology and data, so those skills are key, as are soft skills like listening, coaching, managing time and collaborating.

5. Renewed focus on internal talent mobility. Historically, companies had well-developed career paths that employees could lock into. But in the early 2000s, Indeed and LinkedIn meant employees could easily find a job in another company if they wanted to move up.

In response, companies piled on benefits and career development to retain their high performers. However, managers weren’t incentivized to help staff move to other roles. Internal talent mobility will be a big focus in the future, with help from talent marketplace tools like Gloat, Fuel50 and Workday.

OSHA raising the bar on COVID safety rules

Take a fresh look at your organization’s COVID safety measures now that OSHA has issued updated guidance for employers. While the document breaks little new ground, it does add needed detail to OSHA’s previous recommendations.

The next step: President Biden has ordered OSHA to follow up by mid-March with emergency temporary standards, which include more enforcement teeth and new binding requirements.

OSHA’s Jan. 29 guidance reiterated that “wearing a face covering is complementary to and not a replacement for physical distancing.” Other recommendations for employers:

Assign a workplace coordinator to be responsible for COVID issues.

Review your measures to limit the spread of the virus, including barriers between workers, improving ventilation and cleaning.

Establish policies and practices to protect workers at higher risk, including older workers and those with serious health conditions. Many of these measures will qualify as reasonable ADA accommodations.

Provide regular training so employ-

NEXT UP: Expect OSHA to follow up these new guidelines by mid-March with tough new binding—and more enforceable—emergency temporary standards on COVID workplace safety.

ees understand how they can prevent the spread.

Instruct workers feeling ill to stay home and isolate or quarantine. Employers should not punish employees who miss work because they suspect they may be contagious.

When possible, encourage staff to telework or work in an area isolated from others. Let workers use paid sick leave for their illnesses or after the vaccine.

Consider conducting workplace coronavirus testing, following state or local guidance and priorities.

Report COVID infections and deaths on Form 300 logs if cases are confirmed to be work-related.

Encourage employees to get the vaccine when it becomes available to them.

Online resource Read OSHA’s Jan. 29 guidance, which includes dozens of links to detailed COVID-safety assistance, at www.osha.gov/coronavirus/safework.

Testing staff for COVID? Now get ‘informed consent’

As COVID testing becomes less expensive and more available, it’s easier for employers to run workplace-based testing programs. If your organization is testing its employees, take note: New CDC guidance says that you must ensure employees understand the impact that testing will have on their employment.

Testing cannot be conducted without employees’ “informed consent.” This includes providing workers with “complete and understandable information about how the employer’s testing program may impact employees’ lives, such as if a positive test result ... may mean exclusion from work.” Employees must also be told what happens if they decline a test.

The CDC says you must use simple language to explain testing procedures and consequences. The agency provides guidance on developing easy-to-understand messages at www.cdc.gov/ccindex.

Finally, tell supervisors they may not coerce employees into a test.

“Workplace testing is a critical part of the return-to-work conversation, especially given that symptom screening will not identify infected, but asymptomatic, employees,” says attorney Philip Gordon of Littler. “The recent appearance of more infectious strains of COVID-19 make workplace testing that much more critical.”

Online resource Read the CDC’s guidance at www.tinyurl.com/CDC-covidtest-consent.





Beware firing employee during medical tests

Remind supervisors that terminating (or retaliating against) an employee while she is undergoing medical testing could easily trigger a lawsuit.

The reason: It's illegal to discriminate against an employee based on a suspicion that she might become ill or disabled in the future. That would amount to discriminating against a person who is "regarded" to be disabled, which violates the ADA.

Recent case: When Aryan missed several days of work due to a sudden illness, she called her boss to explain she was undergoing testing for cancer.

She said she planned to return to work in a few days.

Shortly after, Aryan received a termination letter that said she was being let go to "focus on her health." Aryan complained to the EEOC, which sued the company, claiming this statement showed Aryan was being fired because of an actual or perceived impairment. (*EEOC v. Cappo Management*, ED CA)

Final note: Make sure HR has a chance to review all termination notifications before they go out. Insist on having the final say on who is being discharged and how that discharge occurs.

DOL: Staff run errands on own time, not yours

Timekeeping for nonexempt remote employees can be difficult at best. The good news: In a recent opinion letter, the U.S. Department of Labor has said that nonexempt employees who work from home and do errands during the day don't have to be paid for that errand time.

For example, say an employee worked at home in the morning, drove to a parent-teacher meeting from 1:00–2:00 p.m. and worked all afternoon. The new DOL letter clarified that you don't need to pay non-

exempt workers for the meeting time. And travel time is only counted as hours worked "when it's part of an employee's principal activity, like traveling from worksite to worksite during the day."



Advice: For non-exempt employees who start their workday at home, managers should make clear to these work-from-home employees that they need permission to vary their work schedules.

Online resource Read the full DOL opinion letter at www.tinyurl.com/DOLerrand.

Never base hiring on workers' comp history

Refusing to hire a worker because she has previously filed workers' compensation claims is asking for legal trouble. That could violate the workers' comp laws in most states and might be illegal under the ADA, too.

Recent case: A 20-year employee at a Florida nonprofit suffered an on-the-job injury. She went out on workers' comp but was eventually terminated when she wasn't clear to return after using all available leave.

Three years later she was cleared for work and applied for a job at the same

company. The nonprofit scheduled an interview based on her experience but cancelled it the day before, telling her she would not be considered because of information in her workers' compensation claim file.

The EEOC sued on her behalf, alleging disability discrimination based on the refusal to hire her because of her past injury claim. The company agreed to settle, paying the woman \$115,000 and promising to revamp its hiring practices. (*EEOC v. Aspire Health Partners*, MD FL)

Is she a protestor or rioter? Fired worker sues for \$10M

An Illinois computer firm fired a remote California-based worker after it learned she attended the Jan. 6 protest that led to the U.S. Capitol riot. She sued for \$10 million, saying the company violated a California law that protects employees' off-duty activities and political beliefs. She said she only attended the rally, not the subsequent violent storming of the Capitol building.

The lesson: While you can terminate for disruptive or illegal activities, consult with your attorney before firing worker for other political actions. (*Snyder v. Alight Solutions*, CD CA)

Demand staff speak 'perfect English'? Have a legit need

When a Maryland janitor was hired, her interview and training were conducted in Spanish. But a new boss arrived and fired her, saying she could have her job back if she learned to "speak perfect English" in 30 days. Instead, she sued and the company settled for \$37,500. (*EEOC v. Blackstone*, DC MD)

The lesson: The EEOC says rules requiring workers to speak only English at any time during the workday will rarely be justified and only in cases "in which it is needed to operate safely or efficiently." Read the EEOC's English-only rules at www.tinyurl.com/EEOCenglish.

National-origin bias need not target a specific country

The EEOC sued a security firm, saying a supervisor complained he "had too many Africans" and would like to fire some. He did, and also retaliated against them by denying leave. Facing a wall of evidence, the company settled, paying \$1.6 million to the workers of African descent. (*EEOC v. MVM*, DC MD)

The lesson: As this case shows, illegal national origin bias doesn't have to target a particular nation—it can include bias against a region, continent or culture.



From DOL: Less education, more enforcement

The Biden administration has eliminated a Trump-era program that allowed employers to self-report wage-and-hour violations without risk of litigation or fines (the so-called PAID program). The Department of Labor says its new priority under Biden is to “rigorously enforce the law ... with all the enforcement tools we have available.” *The message:* Now’s a good time to self-audit your pay practices before the DOL does it for you.

Health plans must assure mental-health parity

Tucked inside the coronavirus relief package (signed into law in December) was a little-noticed new requirement that prohibits employer-provided health insurance plans from imposing less favorable coverage terms for mental health treatment than they do for other health benefits. For example, mental health coverage can’t be subject to higher co-pays or coverage limits. Plans must document their compliance. The provision took effect Feb. 10. Contact your insurance carrier or broker to make sure they’ve provided the proper paperwork.

ICE says I-9 verifications can still be virtual

The U.S. Immigration and Customs Enforcement has again extended its pandemic-related policy of allowing employers to inspect employees’ Form I-9 documents via video or other electronic means, rather than the normal in-person inspection.

Under this policy, employers that run all-remote workplaces can examine employees’ work authorization documents remotely. In-person inspection will be required once offices reopen. The virtual policy has been extended to April 1, and it will likely be extended for a few months more.

As jobs declined, union participation rose

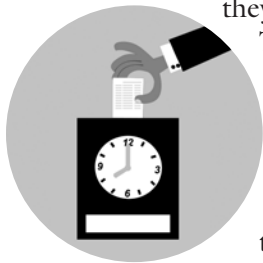
Although the country saw historic job losses due to the pandemic in 2020, it also saw a jump in the percentage of U.S. workers who are members of a union to 10.8%, up from 10.3% in 2019. The main reason: During the pandemic, nonunion workers lost jobs at a higher rate than unionized ones. Public-sector jobs are the most heavily unionized, with membership reaching 34.8% in 2020, up from 33.6% the year before, says the U.S. Bureau of Labor Statistics.

HR Q&A

When employees clock in early, are we required to pay for that extra time?

Q. We have a handful of employees who clock in early (i.e., 5:30 p.m.) but don’t actually start working until their scheduled time (6:00 p.m.). Do we have to pay for this extra time?

A. Yes. The Fair Labor Standards Act (and similar state laws) require employers to pay employees for all time that they are “suffered or permitted to work.”



Thus, if an employee clocks in early, he or she must be paid for time worked. Rather than withhold pay, the better action is to warn employees not to clock in until the start of their scheduled shifts. Discipline them if they continue to do so. But you still have to pay them for time.

After injury, who decides tasks he can handle?

Q. After being out on workers’ comp for almost a year, an older employee has been released by his doctor to full duty. We’re concerned about the potential risks. Do we have to restore him to the same position, or can we legally offer another job that’s less physically challenging?

A. You don’t specify the reason you are worried about “potential risks” of returning an employee who has been released to full duty by his doctors. You do mention age.

If the concern is that you would potentially be exposing an older worker—whom the CDC considers a “vulnerable worker”—to COVID, you might be vulnerable to accusations that you are discriminating based on age. The best approach would be to institute protective measures for all workers and offer any vulnerable workers other less risky assignments if they agree or have requested it themselves.

You may also face a potential ADA claim if you assign a returning worker to a job based on his “perceived disability” when, in fact, his doctors say he is fully released to work.

As to generally returning employees on workers’ comp to another position, check with your workers’ comp insurance carrier. Each state has slightly different rules.

W-4 forms: Can employees pencil it in?

Q. We hire a lot of teenagers and they aren’t familiar with W-4 forms. They often fill them out with pencils. Is this legal?

A. Well, yes, it’s legal but you’re right to be concerned. Consider this basic payroll fraud: An unscrupulous employee changes a penciled-in W-4 to increase the employee’s adjustments and pockets the difference. The employee won’t know until the end of the year, when the W-2, Box 2 entry is reported, and maybe not even then. *Advice:* Take the pencils away and substitute pens.

Do you have a question? If so, you can email it to The HR Specialist at HRSEditor@BusinessManagementDaily.com.

Balance? Aim for work/life 'harmony' instead



by Jeff Bezos

I teach leadership classes at Amazon for our senior executives. I also speak to interns. Across the spectrum I get the question about work/life balance all the time. I don't even like the phrase. I think it's misleading. I like the phrase "work/life harmony."

I know if I am energized at work, happy at work, feeling like I'm adding value, part of a team, whatever energizes you, that makes me better at home. It makes me a better husband, a better father. Likewise, if I'm happy at home, it makes me a better employee, a better boss.

There may be crunch periods when it's about the number of hours in a week. That's not the real thing. Usually it's about whether you have energy. Is your work depriving you of energy, or is it generating energy for you?

Everybody knows people who fall into one of two camps. You're in a meeting, and the person comes in the room. Some people come into the meeting and add energy. Other people come into the meeting, and the whole

meeting just deflates.

Those people drain energy from the meeting. And you have to decide which of those kinds of people you are going to be. It's the same thing at home. It's a flywheel, a circle, not a balance. That's why that metaphor is so dangerous, because it implies there's a strict trade-off.

You could be out of work, have all the time in the world for your family, but be really depressed and demoralized about your work situation, and your family wouldn't want to be anywhere near you. They would wish you would take a vacation from them. It's not about the number of hours, not primarily.

I suppose if you went crazy with one hundred hours a week or something, maybe there are limits, but I've never had a problem, and I suppose it's because both sides of my life give me energy. That's what I recommend to both interns and executives.

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Crisis mode: 10 tips to solidify your HR department & job

The pandemic has forced many HR departments to make tough calls about which functions or jobs to jettison. Some tips to guide your efforts:

- 1. Determine which functions are essential** and must be done in-house. Save functions that help you manage talent: retention, recruiting, employee relations and coaching.
- 2. Consider outsourcing functions** such as workers' comp and leave-of-absence tracking. Even without a money-saving imperative, shipping out that work might prove more efficient than doing it yourself.
- 3. Roll together HR functions** so each employee oversees more than one. If one staff member is dedicated to FMLA, try adding another function, such as COBRA administration.
- 4. Lean on metrics** if you're not sure which functions to combine. Measure everything that can be measured so you will know the workload before you start changing job descriptions.
- 5. Change your processes** to make them more efficient. It's good business even in good times.

6. Benchmark against past performance and future goals. Compare your department's performance and efficiency with prior years. This will help you determine where you can improve.

Hold onto your job

If your organization has to lay off HR staff, solidify your job by:

- 1. Making yourself indispensable.** Volunteer for projects. Do your job well. Collaborate.
- 2. Being visible.** Communicate with managers and give them regular status reports on your key projects.
- 3. Embracing change**—or at least making it look like you do.
- 4. Pinching pennies.** Initiate ways to help your organization save money—or make some.

Keep HR private, even in post-COVID office

The post-pandemic workplace will look very different. Many organizations plan to do away with private offices and move to shared work pods as they lock in employees' home/office hybrid schedules.



But conducting HR duties often requires confidentiality, which can be difficult without a door. If you currently (or plan to) conduct HR duties from a cubicle or nonprivate area, here are three tips:

- 1 Pick an optimal location.** Insist on a cube in a far corner, rather than in the center of an open-space office.
- 2 Establish other locations.** Use a spare conference room for

conversations that require privacy. Warning: Staff will panic every time

you enter the conference room if you only use it to discipline or fire. Invite employees into the conference room to receive good news, too.

If the conference room is frequently booked, make standing arrangements to use a private office.

- 3 Use locks, real and virtual.** Make sure all file cabinets and drawers have locks. Limit access to the keys. Set your computer's screensaver to come up after a short period of inactivity, and password-protect it. Secure confidential papers and computer files whenever you leave your desk.

To: _____
 From: _____

Date: March 2021
 Re: Performance reviews

Communication

15 key questions to guide performance review meetings

Work has been turned upside down in the past year. But the pandemic has not changed one basic management truth: Employees need feedback, and regular performance reviews are still an excellent way for managers and employees to exchange information.

One key to having useful performance review conversations is appreciating that employees and managers come into these meetings with different agendas. Their goals are different, and so are the questions they want answered.

When planning your next review, remember that employees want answers to these questions:

Employees want to know

1. How am I doing?
2. What can I do to improve?
3. Do I have a chance for advancement? Where do I go from here?
4. What will be expected of me before the next review?
5. How will my work be evaluated?
6. What kind of help or attention can I expect from the supervisor?
7. What changes are likely in our department or organization in the months ahead, and how will they affect me?
8. What does this all mean for my compensation?



Managers need to find out

Supervisors need to go into the review considering questions like this:

1. How does the employee see his own performance?
2. What can I do to help him or her reach the top potential?
3. Should I give more (or less) attention, support or responsibility?
4. Does the employee feel content in the present position or want to work toward something else?

5. Can I match any of the employee's ambitions with training or advancement opportunities?
6. What are the employee's suggestions for improving operations?
7. What else is on employees' minds, and what questions do they have?

Stress-free meetings

While reviews can bring anxiety to both sides of the desk, here are some tips to make the meeting go easier:

Create the right atmosphere. If in person, meet in a private, neutral environment, such as a small conference room. Schedule the time in advance, with the employee's input. Sit beside your staffer if possible—not across the desk or table. Eliminate interruptions.

Give the employee an overview of how the discussion will be structured. Make clear you don't expect to do all the talking. Ask questions to encourage a two-way dialogue (*see box at right*).

Talk about one goal or performance area at a time. Discuss strengths and needs for improvement in each area. Cite concrete examples of both positive and negative performance in each area.

Ask for the employee's input. In any area requiring improvement, ask what resources or training the employee needs to improve. If a self-appraisal was done, incorporate the employee's comments into your discussion.

Set clear goals for the upcoming year. Discuss plans for professional development. Make the goals specific.

Summarize the discussion. Take a few minutes at the end to summarize the employee's strengths, needed improvements and goals for the coming year. Review any action steps that were agreed upon. Establish follow-up dates and thank the employee for the time.

Sample questions to turn review into two-way chat

Too often, employees sit silently during performance reviews while supervisors do all the talking. It shouldn't be that way. Productive reviews should always be a two-way conversation. Try some of the following questions to help encourage employee participation:

Job responsibilities

- What do you see as the major responsibilities of your job?
- Which are most important? Least important? Why?
- What takes the most time?
- What do you like best about your job? Least?
- What would you change about your job?

Expectations/goals

- What accomplishments are you most pleased about?
- What has contributed to your success?
- In some areas, has it been difficult to reach your objectives? How could I help you with these areas in the future?

Strengths

- What do you consider your strong points?
- How do these abilities help in your job?
- Are there ways we could use your talents more effectively?

Areas for improvement

- In what areas do you feel you could do a more effective job?
- What have you been doing to improve in these areas?
- How could I be of help to you?

Development

- What abilities would you like to improve?
- What developmental opportunities would be helpful to you?



Meeting employee caregivers' needs in post-COVID world

As employers nationwide prepare to meet a new normal, perhaps no subset of the workforce will be more affected than the over 40 million employees who double as caregivers to aging family members, many of whom struggled to find work-life balance even during better times.

The fallout from the COVID-19 pandemic has had a startling effect on family caregivers. They spend an average of nine hours a week on caregiving responsibilities, and more than 49% reported feeling more anxiety since the pandemic began, according to the Genworth *Caring in COVID-19 Consumer Sentiment Survey*.

Even pre-pandemic, this pressure manifested in increased absenteeism, reduced productivity, loss of morale, increased turnover and loss of knowledge when employees leave to care for loved ones.

How can employers help address these issues? Education and awareness are two pieces of the puzzle. It will become vital for employers to survey their workforces, understand their needs and provide informed, sympathetic support and solutions.

Pre-COVID concerns of caregiv-

ers centered around keeping loved ones safe at home, stress management and navigating health care paperwork. These concerns will intensify, in part, due to the out-sized manner in which COVID has attacked older citizens. In fact, dur-



Even pre-pandemic, the pressure on caregivers led to increased absenteeism, reduced productivity and loss of knowledge when employees were forced to leave to care for loved ones.

ing the pandemic, many caregivers moved loved ones out of group facilities and into their own homes, and they'll be hesitant to return them to group facilities.

This new normal must be met with new tools. Previously, many employers defaulted to an EAP to provide guidance. However, according to the National Business Group on Health, only 5.5% of U.S. employees use their EAP programs, indicating the vast majority are either unaware of their benefits or simply need more.

For employees requiring additional assistance, there are companies that specialize in caregiving support as a value-added benefit.

For example, various programs are designed to accommodate the disparate, highly individualized needs of caregivers. This helps alleviate employee caregivers of the time-consuming research, coordination and cost comparisons.

As the pandemic subsides, flexibility will be critical as most employees will likely prefer to continue working remotely, at least part-time. This will have ramifications for caregivers as they

determine how to remain productive while still caring for loved ones.

Training by HR will continue to help leaders support employees. Training programs that highlight manager coaching, communication skills and other employee engagement needs will play a key role in supporting employees as they navigate their post-pandemic careers.

So, how can employers best support employee caregivers? Simply provide support, programs and empathy—and do so consistently.

Larry Nisenson is a senior VP for Genworth U.S. Life Insurance Segment, including CareScout® Caregiver Support Services, which offers employees support in caregiver roles (www.carescout.com/benefit).

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Paul Legrady (703) 905-4516
plegrady@businessmanagementdaily.com



STAFF

Editorial Director: Patrick DiDomenico, (703) 905-4583, pdidomenico@BusinessManagementDaily.com

Contributing Editors: Anniken Davenport, Esq., Rob Lentz, John Wilcox, Cal Butera

Publisher: Phillip Ash

Associate Publisher: Adam Goldstein

Customer Service: customer@BusinessManagementDaily.com, (800) 543-2055

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Very few employers are mandating the vaccine

Less than 1% of U.S. employers currently mandate that their employees must be vaccinated before returning to the workplace, and only 6% plan to do so once vaccines are readily available, according to a Littler survey of 1,800 employers. The main reasons for the small numbers mandating the shot: 79% cited employee resistance while 67% cited employee morale. Most say they will encourage vaccinations, with 33% offering paid time off for shots and 11% offering some other incentive, such as cash awards (see page 1).

The 'niceness factor' in recruiting: Top 5 qualities

With unemployment running high, applicants are highlighting relevant experience and skills on their résumés. But there remains a human side to the recruitment process as hiring managers look at the so-called "niceness factor." A full 83% of recruiters and hiring managers consider first impressions a critical factor in making a hiring decision, says a Zety study. The top five qualities sought in candidates (in order): loyalty, integrity, sincerity, adaptability and kindness.

Report: Wage-and-hour cases to 'explode' in 2021

The most common type of class-action lawsuits filed by employees revolve around wage-and-hour disputes, including timekeeping errors and misclassification of workers. In 2020, workers filed class-action wage cases at the highest level in two decades, according to Seyfarth Shaw's annual litigation report. Outlook: Wage-related class actions "are expected to explode in 2021 with a more friendly Department of Labor that makes wage theft its enforcement priority and with minimum wage increases in 25 states."

Are unpaid internships a thing of the past?

About a decade ago, the U.S. Department of Labor said internships at for-profit companies "will most often be viewed as employment," meaning paid work. But in 2018, the DOL abandoned that rule and made it easier

Considering turning your remote employees into independent contractors? Put that thought on hold

Even before the pandemic struck, it was clear that telecommuting was becoming common. The number of American telecommuters increased 159% between 2005 and 2017, according to Global Workplace Analytics. The pandemic simply hyper-accelerated the trend.

Employers, however, still need to track hours worked, pay benefits, reimburse remote work expenses and handle all the usual chores that go along with having employees. As a potential cost-saving measure, some employers have begun converting remote employees to independent contractor status.

For a while, it looked like the Department of Labor would help. Last year, President Trump's DOL wrote new rules that would have made it easier to justify switching hourly workers to independent contractor status. The rules were set to take effect on March 1.

Not so fast! The Biden administration put a freeze on that new rule, so it won't take effect in March. Now the DOL has opened a new public comment period and says it will revise the rule's definition of independent contractor status.

Bottom line: Wait until this new DOL leadership decides how it will approach contractor classification before converting any remote employees into independent contractors. Make sure your attorney reviews all contractor agreements.



to offer unpaid internships. However, it seems the paid trend stuck. In a new LiveCareer survey of 1,000 workers who've had internships, more than three quarters (77%) said they were paid for their work. To decide if an internship must be paid or not, see DOL Fact Sheet #71 at www.tinyurl.com/payintern.

False positives? Look out for fake COVID test results

Increasing reports of people using photo-editing software to alter COVID test results means you need to pay more attention. Note inconsistencies in fonts, spacing and grammar. Look for computer-generated versus hand signatures. Contact medical providers to authenticate the document (after first giving employees the chance to authenticate).

Use 'audio résumé' to spot best phone-based candidate

When hiring people who will spend a lot of time on the phone (customer service, telemarketing, etc.), try this technique: Post a listing of the position, along with the job description, and include your phone number only—no email address. The listing should ask them to leave a short (up to two minute) message in which they try to persuade you to hire them. Take the best "audio résumés" and reach out for a full interview.

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Is there anything more dangerous than crossing the IRS?

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Today, payroll managers deal with direct deposit, health spending accounts, vehicle allowances, phone expenses, earned income credits, garnishments and more. Payroll is now a confusing and time-consuming task prone to error.

Don't let a simple mistake unleash the full and frightening power of the IRS and wipe out your business... and you personally.

With our newly updated *Payroll Compliance Handbook*, you'll quickly and easily find answers to all of your nagging payroll questions. This handy reference is written in plain English - no legal gobbledygook here - so you can quickly understand what you need to do to stay in compliance, improve efficiencies and avoid costly payroll errors.

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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
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