

From: Business Management Daily

Subject: Practical HR strategies to boost your career

In The News ...

Fewer ICE raids = more scrutiny of employers. The U.S. Department of Homeland Security announced a big change in enforcement priorities, saying it will stop conducting mass worksite immigration raids. Instead, it will target employers of undocumented immigrants, not immigrants themselves. That may mean more scrutiny of your I-9 forms. *Learn more on page 7.*

Employee had prior infection? You can still mandate the shot.

If your organization is requiring COVID vaccinations for staff, some may tell you, "I already had COVID, so I don't have to get the shot." Not true. A pair of recent federal court rulings rejected this claim and sided with employers. Reason: It's still unclear how much immunity people get from past infections. (*Norris v. Stanley* and *Kheriaty v. U. of Calif.*)

Did the pandemic help or hurt company culture?

Depends who you ask. A large majority of executives (72%) believe their organizational culture improved since the start of the pandemic, but fewer HR professionals (21%) and U.S. workers (14%) agree, says a new SHRM survey. HR pros say the biggest workplace problems now are communication, altered workloads and employee resignations.

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Vaccine religious objections: How to respond

Employees looking to sidestep their company's COVID vaccine mandate are more likely to request a religious exemption, rather than a medical one, because the religious criteria are looser.

According to the EEOC, as long as employees' faith beliefs are "sincerely held," they don't need to belong to any organized religion in order to request an accommodation from the mandate.

However, employees can't just say anything is a religious reason. Political objections aren't religious. Neither are lifestyle choices or being afraid of vaccines.

"When the employee's objection

Vaccine policy: Sample wording. Whether your company decided on its own to mandate COVID shots for employees or OSHA will require it, you need a clearly written policy to make the process efficient and legally safe. Download a sample policy that you can adapt to your organization's needs at www.theHRSpecialist.com/vaxpolicy.



to a COVID vaccination requirement is not religious in nature or not sincerely held, Title VII does not require" you to offer a religious accommodation, said the EEOC in new guidance published on Oct. 25 (see www.tinyurl.com/EEOCvax).

But don't make that assumption right away. As with any accommodation request, you're required to take

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Turnover hits all-time high; 6 tips to survive

Sensing abundant opportunities and better pay elsewhere, a record number of U.S. workers are quitting their jobs. More than 4.3 million people quit in August (about 2.9% of the workforce), up from the previous record of 4 million people jumping ship in April.

The C-suite is aware of the risk. Executives now cite hiring and retention as the #1 threat to their business success for the second half of 2021, according to a West Monroe survey.

The Conference Board suggests employers follow these six steps to recruit and retain in this unique labor market:

1. Broaden the talent pool.

Hire workers with alternative credentials. Half the respondents to

a Conference Board survey of HR leaders said that going forward, they will rely less on four-year degrees and more on alternative credentials. *Examples:* on-the-job experience, apprenticeships and internships.

2. Encourage internal mobility.

This will require work. Only 34% of HR leaders said they have an internal talent marketplace platform to help employees identify open positions and potential careers paths.

3. Offer workers flexibility.

Workers who want remote work flexibility are voting with their feet if it's not offered at their current jobs. A full 82% of organizations surveyed say they now offer some form of hybrid work schedules.

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Religious objections

(Cont. from page 1)

part in an interactive discussion with the employee. Document the process and request additional information, if needed. One key factor: Determine if the accommodation request would cause “undue hardship” on your organization.

In considering if this is a bona fide exemption request, you can consider many factors, including whether the timing is suspicious (e.g., it follows an earlier request for the same benefit for secular reasons).

Remember, you aren’t required to provide the specific accommodation that the employee requests. So even if an employee is granted a religious exemption from the mandate, you can still require them (for safety reasons) to wear a mask at all times, socially distance from co-workers, perform weekly testing or work remotely.

Online resource Read Fisher Phillips’ three-step guide to handling religious claims at tinyurl.com/religiousvax.

Turnover

(Cont. from page 1)

4. Focus on the candidate experience. Start by assessing how satisfied your current employees were with the hiring process. Then reach out to candidates who turned down your job offers. Ask why they rejected you. Make adjustments based on that feedback.

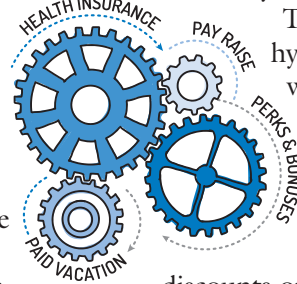
5. Revise onboarding for the age of remote work. Make sure new hires understand and experience your culture by including onboarding sessions on the organization’s purpose and values.

6. Train and retrain hiring managers. Topics to cover: virtual interviewing, behavioral interviewing, managing a remote workforce, effective communication and relationship management.

COVID reshaped the benefits landscape; benchmark how your plan has evolved

The pandemic triggered major changes to employer-provided benefits starting in 2020, particularly focused on expanded offerings that support health and wellbeing for remote workers and increased attention to parental leave and family caregiving duties, according to a new Society for Human Resource Management research.

More than three-quarters of employers (78%) said they expanded telework options and developed benefit packages specific to the more socially distanced workplaces. These efforts included diversifying telemedicine options, making mental health resources more accessible and providing expanded leave benefits to employees caring for children or adult family members at home.



The prevalence of paid family leave rose to its highest level in five years. The percent of employers offering paid maternity and family leave increased.

The shift to remote and hybrid work meant many workers could no longer access benefits traditionally delivered in person. General wellness programs decreased by 7%.

Health insurance premium discounts offered for participation in wellness programs decreased by 11% and rewards for completing health and wellness programs decreased by 9%.

Benefits that could be accessed virtually increased. The study found stress management resources rose by 11%, personal or life coaching benefits increased by 7% and subsidized or reimbursed meditation or mindfulness program offerings increased by 7%.

Considering slapping an insurance surcharge on unvaxxed staff? Check ACA rules first

Employers are increasingly turning to health insurance premium surcharges to incentivize more COVID shots in employees’ arms. Delta Airlines, for example, is charging unvaxxed workers an extra \$200 per month. If you are considering this tactic, be aware that the surcharge may bump up against the Affordable Care Act.

If your organization is required to provide ACA coverage, you have probably aligned your employee premium contribution rate to the “affordable” formula. That may not leave you much room to impose a surcharge large enough to persuade workers to get their shots.

Under the ACA, an employee’s contribution for self-only coverage for the least expensive plan can’t exceed 9.83% of his or her household income.

The IRS lets employers pick from three ways to calculate affordability:

- The monthly federal poverty line multiplied by the percentage

(\$105.51 premium for 2021).

- Wages from the employee’s W-2 Box I multiplied by .0983, divided by 12. Example: $(\$30,000 \times .0983) \div 12 = \245.75 per month.
- The worker’s hourly rate multiplied by 130 hours. Example: $(\$7.25 \times 130) \times .0983 = \92.64 per month.

If adding a surcharge escalates the employee’s premiums into the “unaffordable” category, a surcharge would trigger ACA penalties.

Surcharges include spouses, too

Some companies are now applying the same surcharge policy to employees’ spouses on the health plan.

Example: Starting next year, workers at Louisiana’s largest health system, Ochsner Health, will get hit with a \$200-per-month surcharge if their spouse (or domestic partner) on the company plan isn’t vaccinated. The surcharge is similar to one that is in place for tobacco users.



Can you ask staff to do work while on FMLA?

Do you need to contact an employee out on FMLA leave about pressing business matters like incomplete work or file locations? That's perfectly fine. Courts recognize that employers may need information the employee has.

You can also ask her to complete a few simple tasks that need urgent attention. Just don't make that request a condition of continued employment or go beyond those few simple requests.

Recent case: Madonna, a physicians' assistant, frequently fell behind

on completing required medical chart updates after patient visits. She broke her foot and went on FMLA leave. While out, she received a series of calls and emails asking her to complete the missing chart info.

When her contract wasn't renewed, Madonna sued. She claimed the chart requests interfered with her right to take uninterrupted FMLA leave. The court dismissed her lawsuit, saying that nothing Madonna was asked to do was coerced or conditioned on her keeping her job. (*Masse-Diez v. University of Iowa*, 8th Cir.)

Beware harassment fueled by politics, masks

Monitor your workplace for signs of harassment based on diverging political perspectives. These days, sadly, such harassment can involve employees' use of face masks. If you spot any such harassment, stop it right away. And let employees know it won't be tolerated.

Recent case: Evan, a grocery store worker, abruptly quit. Days later, he committed suicide. His family sued, saying he killed himself after co-workers and supervisors harassed him due to his political views and mask wearing.



Evan told his family the trouble began when he started wearing a mask early in the pandemic. Supervisors called him a member of Antifa. Co-workers sent threatening texts. He complained to management, which allegedly did nothing to stop it. (*Seyfried v. Kroger*, Hamilton County Court)

Note: Don't worry if any law protects politics at work. Employers are free to implement policies that define harassment beyond the traditional protected categories in employment laws.

Tesla zapped with largest race bias verdict

Don't think that you're immune from discrimination lawsuits from your independent contractors.

A jury has ordered Tesla, the electric car maker, to pay a contract worker \$137 million for the racial harassment he suffered at the hands of Tesla employees. It is believed to be the largest verdict in U.S. history for an individual claiming race discrimination.

The case serves as a warning for organizations using independent contractors: Title VII of the Civil Rights Act of 1964 isn't the only anti-discrimination law they need to worry about.

This contract worker sued under Section 1981 of the Civil Rights Act of 1866. That law forbids discrimination in contracts. Title VII only covers employees—and it caps jury awards. Section 1981, however, has no cap.

Recent case: Owen, who is Black, worked as an independent contractor at a Tesla plant. He said Tesla employees frequently called him the "n-word" and told him to go back to Africa.

He complained but nothing changed. He quit, sued under Section 1981 and was awarded \$137 million. (*Diaz v. Tesla*, ND CA)

Apply your leave policy equally to all employees

As Elijah was transitioning from female to male, he was granted a mix of leaves for medical procedures. When he requested even more leave, his employer declined and fired him. He sued for disability and gender bias. Both cases were tossed out. The court said transgender status is not a disability. Plus, Elijah couldn't prove that any other similarly situated employee had received more leave than he did. (*Olivarez v. T-Mobile*, 5th Cir.)

The lesson: Make sure your leave policy (and each manager) treats all employees equally when it comes to providing time off.

'Attractive people should expect harassment': Really!?

When a female security guard complained that a male co-worker verbally and physically harassed her, her supervisor's only response was telling her "she should expect sexual harassment based on her appearance." The EEOC slapped the company with a lawsuit for its brain-dead response. Expect a hefty settlement check coming soon. (*American Security Associates*)

The lesson: Remind your employees that the attractiveness, attire or words of an employee (or customer) are NEVER an excuse for harassment.

Biz interruption insurance: Can it cover pandemic losses?

So far, the answer from the courts is a resounding "no." A federal appeals court ruled that an Ohio restaurant isn't entitled to a payout from its business interruption insurance based on its COVID-related revenue losses. The main reason: There was no physical damage or loss of the restaurant's property. (*Santo's Italian Café v. Acuity Insurance*, 6th Cir.)

Two other federal courts have ruled the same way in similar cases. Regardless of these rulings, insurance companies have been explicitly excluding pandemics like COVID from their new BI policies.



Biden's budget: Paid leave plan gets left out

On Oct. 28, the White House released details of a compromise \$1.75 trillion budget plan that includes changes to health care, climate, education and tax laws. Inter-party debates forced the Democrats to trim the plan from its original \$3.5 trillion price tag. One key piece cut from the final package: a provision allowing up to 12 weeks of paid family leave and medical leave for all workers. Democrats say they'll pursue the goal in other legislation.

Employee complaints trigger COVID fines

Don't expect a federal or state agency to show up sniffing around for COVID safety violations. In reality, most OSHA violations are prompted by employee complaints to the agency. *Recent example:* An insurance company in Denver faces more than \$23,000 in OSHA fines for failing to safely distance employees and allowing COVID-symptomatic workers to remain on site. The investigation was triggered by an employee complaint.

Social Security wage base jumping to \$147k

The Social Security Administration announced that the taxable wage base for the Social Security portion of FICA will increase to \$147,000 for 2022. That's an almost 3% hike over the 2021 wage base of \$142,800. The 6.2% Social Security tax is payable by both employers and employees. (*SSA Fact Sheet, 10-13-21*) *Advice:* Prepare to adjust your payroll system and notify affected employees that more of their salary will be subject to payroll withholding.

HIPAA doesn't block worker vaccine inquiries

Maybe you've encountered employees who won't tell you their COVID vaccination status because they say that such requests are infringing on their privacy rights. They're wrong! Asking employees about their vaccination status doesn't legally infringe on their privacy (medical or otherwise), nor does it violate any HIPAA privacy rules. The U.S. Department of Health and Human Services has issued guidance on this issue. Learn more about HIPAA and vaccine privacy laws at www.theHRSpecialist.com/VaxPrivacy.

HR Q&A

What's the legal way to discipline an unvaccinated worker who won't wear a mask?

Q. We created a policy that says employees who provide proof of COVID vaccination to HR can choose to be unmasked at work. Unvaccinated (or not fully vaccinated) workers must continue to wear their masks. Should there be specific consequences for employees who do not follow this policy, or should it be the same as for not following any other policy?
— *Sonya, New Mexico*

A. You do have the right (and perhaps the obligation) to ensure that your employees follow the federal, state and local rules—and you have a choice of how to discipline workers who will not follow your policy.

The CDC guidance on wearing masks is pretty clear. People who have not been vaccinated, who are immunocompromised or who live with vulnerable individuals are urged to continue wearing masks and social distancing.

For these reasons, some employers have chosen to require all workers to wear masks while working in close proximity, even if vaccinated. But others have sought to encourage employee vaccination by doing as you have, and allowing individuals who demonstrate that they have been vaccinated to go mask-free. You may have workers who have been vaccinated who nevertheless prefer to continue wearing a mask while at work.

Unless an unvaccinated person cannot wear a mask for medical reasons, you can take whatever disciplinary action

you deem appropriate for those who choose not to follow your rules.

Most employers prefer to encourage workers to follow the mask mandate at first. But they will impose disciplinary action for repeat offenders. No one wants to do this, but 18 months into the pandemic, there's little excuse for failing to follow those steps designed to minimize the spread.

A no-call/no-show employee may be sitting in jail. What now? Can we terminate?

Q. An employee did not show for work for three days of shifts. Normally, three no-call/no-shows are considered job abandonment and result in termination.

However, we think the employee may have been arrested. We have attempted to contact him (and his emergency contact) several times with no response. How do we handle this?

— *Katherine, Pennsylvania*

A. It sounds like you believe the individual has been unable to call or come to work because the arrest resulted in the employee being detained.

There is no special reason to treat this situation other than a standard "no call, no show." But if you later find that the employee was, in fact, arrested, and your internal investigation suggests the facts are such that you wish to give the employee a second chance, you may always elect to reinstate the employee at that time.



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

Wages rise at fastest pace in 20 years; no end in sight

Fueled by a severe labor shortage and a rapid post-vaccine economic reopening, wages in the United States have jumped at their fastest pace in more than 20 years. And that increase is likely to persist in the coming years as pandemic uncertainties fade and long-range demographic factors come into play, says a new Conference Board report.



“While we expect wage growth to slow a little in 2022, in the coming decade a tight labor market that drives wage pressures will be the norm,” says Gad Levanon, head of the Conference Board’s Labor Market Institute. “This will largely be due to the sizeable generation of Baby Boomers continuing to retire, without enough people to replace them to meet the growing demand for workers.”

Wages for private-industry workers rose 4.3% between January and June 2021, much higher than the average over the past two decades.

The Conference Board predicts wage growth in 2022 will settle closer to the long-run average of 2.5% to 3%. By 2023, however, employers can again expect pressure to raise wages, a pattern likely to continue in the next decade.

Blue-collar and manual service workers may reap the most rewards, as the shrinking number of Americans without college degrees curtails the long-term supply of workers in these fields.

For white-collar workers, the shift to remote work may significantly affect how wage trends develop in the near term, says the Conference Board. Employers in expensive labor markets may be able to lower overall labor costs by hiring more staff in cheaper U.S. labor markets or abroad.

A retention must: Explain the total value of benefits

With open enrollment approaching and employee retention at the top of every HR professional’s agenda, effective benefits communication has rarely been more essential.

A portfolio of great benefits can help retain good employees who are thinking about jumping ship—but only if employees know about (and understand) those perks. Pay extra attention this fall to make sure workers know everything they might be giving up if they decide to leave.

Here are three ways to sell employees on your benefits:

1 Add up your investment in employee benefits. Workers rarely recognize the value of their benefits. As they gripe about higher deductibles, they probably don’t know how much the organization kicks in so they don’t have to pay even more.

Make the value clear by calculating the monetary worth of each benefit. Then share that info with employees. Include everything from free parking to wellness programs to medical and retirement benefits.

2 Do more to encourage participation. Advertise all of your benefits—from health insurance and retirement savings accounts to voluntary benefits and work/life perks. Launch enrollment campaigns for elective benefits such as wellness coaching. Those who partake will find them more valuable than those who don’t.

3 Talk, talk, talk! Keep employees enthusiastic about work by keeping them in the loop about how you support the physical and financial wellbeing of employees and their families. And communicate with employees throughout the year, not just during open enrollment.

Provide perspective on how your benefits deliver value in today’s economy. *Example:* As the stock market booms, help staff understand that retirement investments they make now will pay off when they are older. Note your efforts to keep health benefits affordable.

Most employers won’t base teleworkers’ pay on location

Living on the upper east side of New York City costs a lot more than, say, living in rural Texas. And as more employees work remotely, some companies are reflecting that regional difference in their pay levels.

For example, Google recently told teleworkers they could keep working from home, but they should expect to be paid less if they live/work in a lower-cost area. Google telecommuters in Connecticut are paid 15% less than teleworkers in New York City.

Most employers, however, are holding off on this pay-by-location trend. More than two-thirds (69%) of employers say they don’t plan to offer reduced pay for remote workers who live in lower-cost cities, says a new Payscale report. Tech companies and large global employers are the ones most likely to adjust pay for remote workers based on location.



If you are considering make this move, expect questions and some backlash from staff. Two tactics will make it easier to weather the criticism:

1 Develop a formal telework policy. Many employers never documented their policies in 2020 when COVID triggered an exodus from the office. Now is the time. Include a rule in your policy requiring employees to honestly report where they are working. Find a sample agreement at www.theHRSpecialist.com/telecommuting-agreement.

2 Set specific criteria. Decide whether you will base pay on the location where remote employees do their work, the location of your nearest facility or some other criteria. Announce your pay schedule and terms all at once.

Caution: If disabled workers are telecommuting as an accommodation, check with your attorney before lowering pay. It could trigger ADA complaints.

To: _____
From: _____

Date: November 2021
Re: Performance reviews

How to get the most out of your employees' annual reviews

Even as the workplace was turned on its head during the pandemic, employees' need for feedback hasn't decreased one bit. In fact, it may be more important than ever for managers to provide consistent coaching to their employees.

When it comes to formal employee appraisals, the most popular timing is still the traditional annual review (63%), while far fewer managers conduct formal reviews twice a year (18%) or quarterly (8%). And about half of managers (47%) use employees' own self-assessments as part of the process.



How can you improve your review process this year? Here are five tips:

1. Change your perspective.

Performance reviews can be daunting. But simply changing your perspective on the real purpose of a review can shift its entire vibe.

Many managers view the review process as simply a task to check off for HR. But it's vital to focus on the first word of "performance reviews." It's all about improving employees' performance, which will actually make the manager's job easier, too.

That's why it's important to provide the most honest feedback possible, which likely will include some suggestions for improvement.

2. Make feedback a year-round thing.

The formal annual review is often seen as a "finale" that leads to annual merit increases and bonus compensation. But discussing an employee's performance, needs, challenges and future goals should never be a one-time event.

If any information in the review comes as a shock to the employee, it is a signal you need to engage in more

frequent constructive, honest communications. Set a schedule for yourself to give regular feedback to every worker, even if it's a casual check-in.

3. Create a two-way conversation.

Employees will too often sit silently during reviews, allowing managers to do all the talking. But productive reviews should be two-way discussions.

Encourage that by prodding the employee with questions like:

- What would you change about your job?
- What accomplishments are you most proud of?
- What has made it difficult to reach your goals (and how can I help)?
- Are there ways we could use your talents more effectively?
- In what areas would you like to improve (or get more training)?

4. Choose your delivery carefully.

Use nonthreatening language, avoiding "you" or "them." One strategy is to sandwich your feedback in a way that presents one piece of positive feedback, followed by a negative (or two), but always ends on a positive.

Focus on what's working in addition to needed improvements. It's also about creating positive action plans that learn from the past, but don't dwell on it.

5. Invite the employee to look ahead.

Always ask how your employee's current role syncs with his or her long-term goals. Invite the employee's thoughts about the job, the company, the culture, the team and his or her relationship with you.

Discuss ways you can further support his or her career development. Talk about ways to help employees build the skills needed to reach the next desired level of their career.

6 traps to avoid on job evaluations

When necessary, providing negative feedback during reviews is important. But when handled incorrectly, negative comments (and consequences) in reviews can lead to legal trouble.

Employees may file lawsuits if they feel a review was based on discriminatory or unfair information, especially if the review leads to discipline or termination. For that reason, it's wise to avoid these mistakes that can taint the evaluation process:

1. Relying on stereotypes

rather than firsthand observations. *Example:* Rating men higher than women on leadership skills based solely on gender.

2. Letting personal feelings influence the assessment.

Example: Rating employees poorly because they've previously butted heads with the manager.

3. Ignoring performance

standards by comparing employees against one another. Using forced rankings can result in good performers being unfairly rated as poor.

4. Inflating the ratings of poor performers.

Most bosses who do this want to avoid confronting slackers or don't know how to correct performance deficiencies. Rating inflation will only allow problems to grow.

5. Relying only on recent performance.

The review should cover the entire review period (usually 12 months) and should address the employee's growth (or lack thereof) over that entire period. Point to documented (and discussed) performance events throughout the year.

6. Interpreting motives instead of just stating the behavior.

Example: "Shane isn't committed to the job. That's why he was late to work 21 times." Stick with objective and documented facts, not opinions.





DHS unveils new workplace immigration strategy: What does it mean for I-9s and E-Verify?

In October, the Department of Homeland Security released an internal memo that outlines a new shift in worksite enforcement strategy from the various governmental agencies that oversee I-9 and E-Verify compliance. It calls for the immediate end of mass worksite raids that typically involve the arrest of hundreds of workers suspected of having an undocumented status.

What's more interesting from an HR perspective are the new enforcement principles that put employers (rather than employees) in the bullseye for potential scrutiny. DHS will look to reduce the demand for illegal employment by delivering more severe consequences to exploitative employers. Plus, it will increase the willingness of workers to report violations.

I-9 compliance. Will the stopping of "mass raids" mean that you don't have to worry about an I-9 audit as well? In fact, I-9 audits will continue to be a solid tool in ICE's arsenal for uncovering the types of "bad behavior" committed by the most unscrupulous of employers.

It's also worth noting that unlike mass worksite operations (which are very expensive), I-9 audits can be initiated relatively quickly through

a routine administrative process. During the past few years, ICE has implemented even more efficient procedures for the service of Notices of Inspections (NOIs) to businesses, including via certified mail rather than an in-person visit.

The DHS' new strategy puts employers (rather than employees) in the bullseye for immigration scrutiny, and that could include more audits of I-9 forms.

Bottom line: All indications are that I-9 NOIs (what some call "silent raids") are here to stay, with increases expected to make progress on DHS' employer-focused strategy.

E-Verify under the microscope. The DHS memo also references problems with the E-Verify system. It directs DHS to provide recommendations to strengthen E-Verify to ensure it's not misused as a tool of exploitative labor practices.

Takeaways for employers

Now that worksite enforcement is back on the government's radar, employers need to ensure they are fostering their own "culture of compliance." Some simple strategies you can implement:

1. Raise Form I-9 awareness.

Above all else, employers must avoid the tempting trap of remaining willfully blind to I-9 and immigration violations, especially if you operate in a decentralized manner. If you haven't examined your Form I-9 practices in a while, do so through an attorney-led audit that identifies potential problems and outlines plans for a speedy remediation.

2. Train staff on I-9 and E-Verify procedures. The key to a successful compliance program is having knowledgeable and trained staff who can navigate the sometimes rocky waters of I-9 and E-Verify processes, plus the rules relating to nondiscrimination.

3. Systemize your I-9 and E-Verify process. The lack of a well-defined hiring process can be a recipe for disaster, and leave you with no defense to compliance allegations. Most experts agree the best way to systemize your I-9 and E-Verify process is through a smart electronic I-9 system that interfaces with your other HR onboarding tools.

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Volume 19, Number 11

Printed in the United States.

The HR Specialist (ISSN 1545-360X) is published monthly by Business Management Daily, 7600A Leesburg Pike, West Building, Suite 300, Falls Church, VA 22043-2004, (800) 543-2055, www.theHRSpecialist.com. Annual subscription price: \$299.

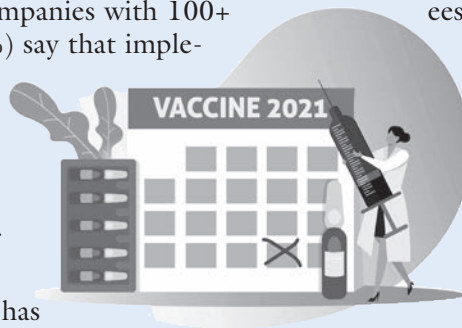
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Employers support mandate, but concerned

While 63% of U.S. employers says they support President Biden's decision to mandate COVID vaccinations for employees at companies with 100+ workers, more than half (56%) say that implementing a vaccine/testing mandate in their organization will be "difficult" or "very difficult," according to a new Conference Board survey. Another red flag: 30% of companies surveyed said that the pending OSHA mandate has hurt their company culture.



Showing fake vaccine card is federal crime

If you're requiring COVID vaccinations, let employees know that showing a fraudulent vaccine card (or even just a dishonest claim of vaccination) is grounds for termination—and is a federal crime that carries potential jail time. The FBI issued a warning to the public earlier this year. An NHL hockey player was caught last month showing a fake card, costing him a 21-game suspension and \$1.6 million in salary.

Vax-mandate carrots or sticks: What's best?

Before OSHA's national mandate, many employers decided to establish vaccine requirements for employees on their own. Other companies decided to use a softer tactic, saying that if workers choose to remain unvaccinated, they'd pay a higher health insurance premium (*see page 2*). Which works best? At least in the airline industry, the threat of job loss is a bigger motivator. United's vax-or-fired mandate led to a 97% compliance rate by the start of October. Delta set a \$200 health insurance surcharge on unvaccinated workers and has seen only 82% compliance.

Lean into mandate as part of your 'brand'

As COVID vaccine mandates become more common, some employers will lose good employees who are firmly in their anti-vaccination beliefs. One option: "In recruiting, brand safety as a benefit in your outreach to new hires," suggests HR consultant Karl Ahlrichs. "The message is '*Come work with us because we'll offer you a safe environment to grow.*' Make that part of your brand."

FYI

Health costs expected to grow 4.7% in 2022

Employers expect health benefit costs to rise 4.7% on average in 2022 compared to 2021, according to Mercer's National Survey of Employer-Sponsored Health Plans. That's in line with increases from recent years except for a dip in 2020, as many people delayed health care during the pandemic. As the labor market grew tighter in 2021, fewer employers than usual took cost-saving measures to shift expenses to employees, such as raising co-pays or deductibles.

Can workers steal data in name of 'whistleblowing'?

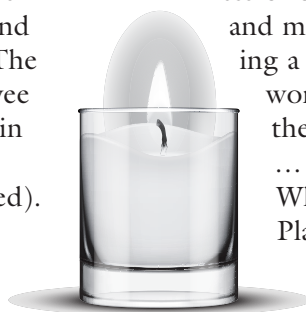
On her way out the door, a departing Facebook employee stole a trove of confidential documents about alleged Facebook wrongdoing. She turned them over to the U.S. Securities and Exchange Commission and appeared on *60 Minutes*. Is this legal? It depends. The answer often hinges on the information the employee takes and how they use it. There's a big difference in giving the stolen info to the SEC (likely protected) versus providing it to the media (likely not protected). *Advice:* Your best protection is to have a strong nondisclosure agreement with all workers who have access to confidential information.

HSA distributions hit an all-time low last year

Employee contributions to health savings accounts, on average, declined between 2019 and 2020, while average annual distributions from HSAs fell to an all-time low in 2020, says a new Employee Benefit Research Institute report. *The cause:* the pandemic, of course. As unemployment spiked last year, HSA owners reduced their contributions. And as employees quarantined, their reduced use of health services led to the dramatic drop in HSA distributions.

Can you smell that smell of ... workplace bias?

Woody ... floral ... citrus. You can buy candles that give off any aroma. Now, in an effort to raise awareness of on-the-job prejudice against women and minorities, a London company is selling a new candle that they say "smells like workplace discrimination." It comes with the words "85% of CEOs are white men ... This needs to change" on the side. What exactly does this candle smell like? Plain ol' vanilla, which the company says "captures exactly what a world smells like without diversity."



Is there anything more dangerous than crossing the IRS?

Payroll Compliance Handbook

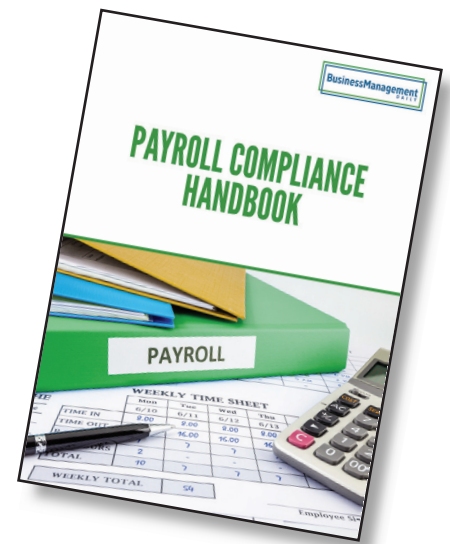
Once upon a time, payroll used to be easy: the employee's gross pay minus federal, state and local taxes. Then along came health premium and 401(k) deductions. Still simple, but...

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.

Each chapter focuses on a specific aspect of payroll management and compliance... and every issue of payroll compliance you need to know is addressed.



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- And dozens more critical topics!

Over, please

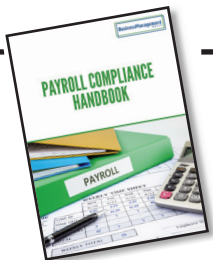
We've Made Payroll Easy Again!

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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