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A MURKY CRYSTAL BALL

The past years have provided a spade of changes affecting HR rules and practices. HR and management have been addressing these with hardly time to breathe. As we now look forward to 2019, there is no reason to believe that won't continue. Legislation to address sexual harassment, mandatory arbitration, paid leave, predictive scheduling, background checks, and paid family leave among other hot topics are expected to reemerge the first quarter of the year. At least 46 states and the District of Columbia will be in session by the end of the month. It is hard to predict what they will think is a good idea; but it is bound to impact HR and organizations as they seek to comply with yet another round of changes.

As you might imagine, HRA gets a wealth of information everyday about possible new laws, cases where precedence has been overturned, and interesting articles promoting unusual theories about what will occur in the future of HR. Here are some of the items that are predicted for 2019.

- Paid family leave statutes will gain momentum in the states; at the same time, laws will be passed prohibiting cities and local districts from passing their own laws about this.
- The OFCCP will issue a number of new directives.
- Sexual harassment and gender identity laws will continue to proliferate complicating an otherwise already challenging environment.
- Medical marijuana will still be in the top ten concerns for 2019 as more states try to wrestle with this thorny problem.
- Immigration will continue to be an issue complicated by the diverse beliefs and perspectives of our society and our politics.
- Recruiting qualified and capable talent for your jobs will continue to be a problem, and so the best employers will have to get creative about how to acquire these critical resources.
- Limited Pay Equity Statues will become far more robust as additional states try to legislate employee compensation to achieve fair results for everyone.

And here, you thought it was going to be a calmer year, didn't you? For us, the words you are looking for are – get ready... "it might be a rough ride".

HRA will try to keep up on all the legislative activity for both state and federal, so if you have questions, if you want to express your opinions, if you want to talk through what the impact might be on your organization, give us a call and we can tell you what we see in our murky crystal ball.

HR BY THE NUMBERS

A recent survey of 15,000 Global HR professionals conducted by Frazer Jones and the HR TECH Partnership revealed some interesting results. 95% of the HR community believes new technology will allow HR to become more efficient and strategic, while 77% believe digitization plays a key role. However, less than 25% of HR professionals have actively adopted digital solutions involving Artificial Intelligence. While budget, training and lack of support from management are cited as key barriers, many simply do not know where to begin or how to increase their understanding.

- In the training and development arena, 63% of millennials look for jobs where they will have access to training workshops and company-funded college classes. And in a really painful survey finding, 50% of employees said that they didn't know what their job expectations were for any day. And finally, 28% of employees say that they wish their employer would allow them to volunteer for a community service organization.

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- And in a separate survey, there is some valuable information about whether employees want cash or something else. The survey found that 65% of participants strongly agree that travel incentives are remembered far longer and more fondly than cash payments.
- The year-end report for EEOC is out. It says the agency received over 554,000 calls and emails and over 200,000 inquiries regarding possible discrimination claims. With just under 800 investigations, the agency is facing significant operational challenges due to under-staffing. On average, private and federal sector workers filing a complaint in 2017 waited 295 days for resolution and federal workers waited 543 days. Even with those numbers, EEOC currently has the lowest backlog of cases in more than ten years. They started the new year (federal fiscal year starts October 1st) with 49,500 private and public sector charges pending.
- The Health Enhancement Research Organization's (HERO) 2018 Report done in concert with Mercer Consulting provides insight into what organizations are doing regarding employee well-being. Here are a couple of the results:
 1. "The practice most associated with higher participation rates is the presence of leadership that publicly recognizes employees for their wellness efforts and achievements." Organizations reporting active leadership participation had a participation rate of 61% of employees. While those without leadership participation reported only a 48% participation by employees.
 2. "Organizations whose leaders actively participate in the health and wellness initiatives report higher median rates of employee satisfaction with the health and wellness programs (83%)...than those without leader involvement (66%)."

REQUIRED CALIFORNIA TRAINING

January 1, 2020 brings a new requirement for employers who have employees or operations in California. There has been a requirement for harassment prevention training in California for several years; the law has changed effective the first of this year. Previously, the law required employers with 50 or more employees to conduct this training. That threshold is now five or more employees. There is specific content that must be included in the training and it must be repeated at least every two years. Documentation showing the content and the employees attending must be kept for at least two years. For supervisors and managers, there must be at least 1 hour of training within the first six months of starting their position. These new requirements must be met by 1/20/20, rather than beginning on 1/1/20. The law specifically states that these requirements apply to janitorial, property management, farm labor organizations and talent agencies. More information is available [here](#).

Another new law impacting some California employers relates to human trafficking awareness. It applies to hotels and motels which employ five or more employees and also requires training every two years. This new law also requires posting. For more information on this new employer obligation, you can find more information [here](#).

HR QUESTION OF THE MONTH

Last month's question was:

Who were the first people to make New Year's resolutions?

Your choices were:

The Egyptians The Babylonians The Greeks The Druids

If you guessed, you googled, you just happened to know the answer, you discovered that the **Babylonians** were the first civilization to see the New Year as a time to make resolutions for improvement in people's lives.

This month's question is a bit different. It is actually two questions.

1. How often does someone in the US develop Alzheimer's?

Possible Answers:

Every 15 seconds Every 65 seconds Every 4.5 minutes Every 11 minutes

Editor: Judy Clark, CPC, SPHR, IPMA-CP: Advantage is published monthly and is designed to provide information on regulations, HR practices and management ideas and concerns. The intended audience is managers, supervisors, business owners, human resource and employee relations professionals. If you have questions about the content, an opinion about the information, or questions about your subscription, please give us a call at (503) 885-9815 or e-mail info@hranswers.com.

2. What is the composition of individuals with Alzheimer's?

Possible Answers:

- ❖ Women are more likely to develop the disease than men by a ratio of 2:1
- ❖ Hispanics are about 1 and one-half times as likely to be affected than older whites
- ❖ African-Americans are about twice as likely to be affected than older whites
- ❖ People 65 and older are 28.5 times as likely to develop the disease as those under 65

Look for the answer in next month's Advantage Newsletter.

RULES FOR HARDSHIP DISTRIBUTIONS CHANGING IN 2019

If you have a 401(k) plan and if you allow hardship distributions, then this information will be important to you. The Tax Cuts and Jobs Act of 2017 and the Bipartisan Budget Act of 2018 both included hardship rule changes to 401(k) plans. On November 9, 2018, the US Department of the Treasury and the IRS issued proposed regulations addressing the changes in both acts, as well as some others.

Currently the details of the new regulations are in a preliminary status and the final regulations have not yet been released. In the absence of a final ruling, the changes indicated below are set to take effect under the proposed rules on January 1.

What's changing

- Under the previous rules, employees who took a hardship withdrawal were prohibited from contributing to the plan for six months after the date of the distribution. Under the new rules, the six-month exclusion period is eliminated. Plans may opt to wait until January 1 of 2020 to adopt this change.
- Under the old rules, employees could request a hardship distribution only of those funds that represented their own salary deferrals, excluding earnings. Under the new rules, hardship distributions from 401(k) plans (but not from 403(b) plans) may come from salary deferrals *including* earnings.
- For 401(k) plans that have Qualified Matching Contributions (QMACs) or Qualified Nonelective Contributions (QNECs), those funds, as well as any earnings on them, may also now be used for hardship distributions. This was not permitted under the prior rules and adoption of this new allowance is optional under the new proposed rules.
- Previously, employees were required to obtain all available nontaxable loans under the plan (and any other plans maintained by the employer) before being eligible to request a taxable hardship distribution. This requirement is being removed, although employers have the option to retain it as a rule specific to their plan.

What plan sponsors should do

- Expect information and instructions from your TPA in the coming months regarding the necessity of a plan document amendment or restatement -- including any actions needed on your part, costs involved in the process, and updated documentation that should be retained.
- If employees request a hardship distribution shortly before the new rules take effect, make sure they understand these upcoming changes. Where feasible, they may find that waiting to submit their request under the new rules could be better for them.
- If you have questions, please ask! If your employees have questions, you are (as always) invited to refer them to our office for assistance as well.

Content prepared by The Commerce Company. Contact us at www.thecomco.com or 503-203-8585.

CLIENT ACCOLADES

A tip of our hat to **Northwest College of Construction** for their new marketing initiative. Their commercials are running on TV which is a new venture for them. And our community will be delighted if your marketing efforts succeed because we all know how tight the craft and labor market is for skilled tradespeople. Well done; we're proud of you and wish you success!

The *Portland Business Journal* is again our source for accolades due to our law firm clients. We have had the chance to work with several of them and we are proud to have those relationships. The Largest Law Firms list in the January 11th PBJ identifies the following firms with whom work with:

Stoel Rives

Schwabe Williamson Wyatt

Dunn Carney

Hart Wagner

Cosgrave Vergeer Kester

Black Helderline

Congratulations to you all...you make a difference in many lives and organizations.

Annually the *Portland Business Journal* honors the Executives of the year. These are recommendations that the business world gets to nominate. There are two of the twelve that we have the privilege of working with – **Graciela Gomez Cowger, CEO at Schwabe Williamson Wyatt** and **Ryan Harms, CEO of Union Wine**. There is no greater prestige than to be selected by your peers as the best in your position. Congratulations, you have done your organization and yourself proud!!

THOUGHTS TO THINK ABOUT

If I have been able to see further, it was only because I stood on the shoulders of giants.

~ Isaac Newton

The time is always right to do what is right.

~ Martin Luther King, Jr.

If your actions inspire others to dream more, learn more, do more and become more, you are a leader.

~ John Quincy Adams

Optimism is the faith that leads to achievement. Nothing can be done without hope and confidence.

~ Helen Keller

Life's most persistent and urgent question is, 'What are you doing for others?'

~ Martin Luther King, Jr.

If you fell down yesterday, stand up today.

~ H. G. Wells

Adopting the right attitude can convert a negative stress into a positive one.

~ Hans Selye

Perseverance is the hard work you do after you get tired of doing the hard work you already did.

~ Newt Gingrich

Pleasure in the job puts perfection in the work.

~ Aristotle

Whatever your life's work is, do it well. A man should do his job so well that the living, the dead, and the unborn could do it no better.

~ Martin Luther King, Jr.

WHY DO MARKET SURVEYS

There is a greater emphasis on compensation right now. There are probably several reasons for that. Oregon's Pay Equity Law certainly is a major player for the state of Oregon, and other states and cities are embarking on their own version of pay equity legislation. So, there is an enhanced sensitivity in those locations. The economy appears to be stronger than during the last few years so that probably contributes to organizations thinking more about pay as a retention strategy. And then of course, there is the substantial lack of applicants, so pay is one of the primary concerns to give organizations the ability to attract qualified individuals.

Not all market data is as accurate and instructive for employers, so it is critical that employers know what data is most reliable. Here is a mix of tips and items for consideration offered by ERI (Economic Research Institute), one of the most trustworthy sources of pay information, coupled with our own ideas that come from years of helping clients with their compensation design and implementation.

1. Remember that the definition of "market" is who you hire from and to whom you lose employees to. It is likely that you compete in more than one "market." First, there is the geographic market for your lower level of employees. Applicants for these positions are not likely to travel far for employment so they will seek a position that is relatively close to where they live so that they don't spend all their paycheck traveling to and from work. The second market that employers should consider surveying is one that is industry specific or covers professional positions. And the third market that needs careful thought is likely more regional or national for your management or executive positions. They are all carefully linked. High-quality survey data can support your business in making informed decisions to establish its short- and long-term compensation strategy.
2. When an organization begins to conduct market research, it needs to think about it as a long-term process. Find good data (more about this later) because you will want to use those sources of data each time you survey so that there is consistency. A start-up organization is in a unique position to develop fair, consistent, and market competitive human resources programs from the start. This is a perfect time to shape the business culture and develop the business strategy as well as the human resources and total rewards strategies and programs. For employers who have been in place for several years, but not found the need to conduct a survey until recently, learn which surveys contain your positions and include organizations similar to yours.
3. The cost of labor is typically the highest expense in most organizations. It is a critical expense that needs to be proactively managed by all businesses. The sooner the expense is managed through credible salary surveys and external market data, the more likely the business will develop the right total rewards programs and practices to support its short- and long-term growth. Your competitors are most likely already using reliable market data!
4. Without external market data, new hire and existing employee compensation decisions will commonly be based on subjective decisions. These decisions form the framework for future compensation practices and programs. Investment in people, capital equipment, and technology should all be supported with quality insight and analytics. Without reliable market data, staffing and pay practices can be based on managers' prior experiences or recruiters' observations of the marketplace. Since many states and cities now forbid employers from asking about previous pay levels, it is critical that employers have reliable data to assist them in setting appropriate pay at time of hiring. (Oregon employers beware...subjective changes in pay will not be looked at favorably.)
5. Employees today have easy access to market data for their jobs. Online survey data prepared for the masses is referred to as crowdsourcing. It is not always reliable and can be inflated since it is self-reported. It has become common for employees raising concerns over their compensation. In fact, many organizations now ask employees to submit an outline of their research and the methodology used before they can make an argument that they are underpaid. Be cautious and keep in mind that crowdsourced data providers may also receive revenue from advertising. They typically have a broad customer base, and integrity of data may not be their highest priority.
6. A quality salary survey can support a business in establishing the right compensation mix for base pay, benefits, and total compensation for each job, level, and function. A business can then make informed decisions based on market competitive base salaries and incentives of similar jobs within its industry. The compensation mix is a critical component of providing a competitive compensation package to retain a high-performing, engaged workforce.

If you want more information about how this is done or need some assistance in getting a broad overview of the market pay for some or all of your positions, please just give us a call and we'll happily talk with you about what you wish to accomplish.

POSITIVE INTERACTIONS

Last month we offered an article on interactions that have negative outcomes. This month, starting the New Year out on a positive note, we offer the following information on how to have a great outcome as you interact with others.

There is a gentleman, John Gottman, who blogs about positive interactions. Here is one of his primary take-aways. Some of his research shows that workgroups with positive to negative interaction ratios greater than 3 to 1 are significantly more productive than teams that do not reach this ratio. To achieve this ratio, it means that we must remember our “pleases” and “thank yous” and to offer words of gratitude when someone does something that we need or want done.

So, what does this mean for you and me? For most of us it means we need to increase the number of positive interactions we have at home and at work and reduce our negative interactions. We need to engage each other with more smiles, kind words, encouragement, gratitude, meaningful conversations, honest dialogues and sincere positive interactions. To foster these actions we need to create personal and team expectations that help us interact more positively. If we make them part of our organizational process and individual habits, they are more likely to happen.

The more you practice this, the more it will become ingrained in your life. For instance, at home you might decide to take a walk with your spouse each night after dinner and talk about the positive things that happened at work. At work you might make it a point to smile at your co-workers and customers more often. As a manager or HR professional, you could spend more time praising your employees for the things, they do right rather than always focusing on what is wrong. We know of one organization that has a practice of personally praising five people every week. There is a phrase we have all heard before, “Catch them doing something right.” This is a good time to renew your action regarding this. As an organization you might gather all of your employees on a call once a day to share a positive message, or perhaps you might gather your sales team together each week and have your team members share success stories. The ideas are infinite. The key is to intentionally cultivate more positive interactions to fuel success.

However, please know that we aren’t suggesting you should never have negative interactions. Barbara Fredrickson’s research from the University of Michigan shows if a work group in a company experiences a positive to negative interaction ratio of 13 to 1 the work group will be less effective. This implies that no one is willing to confront the real problems and challenges that are holding them back. Sometimes we need to confront a situation to move past it and, as we know, ignoring problems that stare us in the face doesn’t work. Negative interactions are necessary so long as they should occur much less frequently than positive interactions.

Positive interactions are essential to healthy relationships, a positive work environment, and individual and team success. Think about how this could work for you and the others in your organization, then make positive interactions a habit.

FOR YOUR CALENDAR

Open up your Daytimers, Outlook, and all those Smartphones. The following is a look at upcoming events and workshops, special days, and other diverse and fun activities you will want to be aware of and schedule. **To register for our workshops, go to [HR Answers Events](#), or email your registration form to info@hranswers.com.**

JANUARY

National month of the following: Blood Donors, Hot Tea, Mentoring, Slavery and Human Trafficking Prevention, Slow Cooking, Soup, and Sunday Supper.

- Jan. 19 Popcorn Day
- Jan. 21 Martin Luther King Day
- Jan. 23 Pie Day
- Jan. 24 HRA Workshop – HRA Office – Portland/Tigard
[Oregon Pay Equity - Job Profiling](#)
8:30am - 12:30pm
- Jan. 25 Opposite Day
- Jan. 28 Have Fun At Work Day
- Jan. 30 HRA Workshop – HRA Office – Portland/Tigard
[Corrective Action](#)
8:30am - 12:30pm
- Jan. 30 HRA Lunch Bunch **Webinar** - Online
[Employee Transition in the Midst of Performance Improvement](#)
12:00pm - 1:00pm

Planning Ahead:

- Mar. 7 - HRA Workshop Series – HRA Office –
- May 2 Portland/Tigard
[Supervisor 8 Part Series](#)
8:30am - 12:30pm
- Mar. 12 HRA Workshop Series – HRA Office –
Portland/Tigard
[Creating a Positive Workplace Culture](#)
8:30am - 12:30pm
- Mar. 19 HRA booth at the NW Youth Career Expo
[Portland Workforce Alliance NW - Recruiting Assistance](#)
8am – 5:00pm

View more details and register for our workshops on our website at hranswers.com.

Coming Up:

- Feb. 6 HRA Lunch Bunch **Webinar** - Online [Handbook Reviews](#)
12:00pm - 1:00pm
- Feb. 7 HRA Workshop – HRA Office – Portland/Tigard
[Reasonable Suspicion – Drug and Alcohol Testing](#)
8:30am - 12:30pm
- Feb. 19 HRA Workshop – HRA Office – Portland/Tigard
[Helping to Build Effective Work Teams](#)
8:30am - 12:30pm
- Feb. 21 HRA Workshop – HRA Office – Portland/Tigard
[Compensation & Classification](#)
8:30am - 12:30pm

Information and advice offered through Advantage should not be construed as legal opinion. The material contained herein will not apply to all circumstances or to all organizations. Use it as a resource and reference. Should you feel legal advice is required, please consult with your corporate counsel.

ON MY SOAPBOX

My brother died this last year. As the last two members of our nuclear family, it was an especially hard loss for me. He was a remarkable person. He was multitalented, he composed classical music, woodworked some of the most amazing wood pieces you have ever seen, was the author of six books, won a national award for speaking, and the list goes on. He was a pretty decent philosopher and combined that with his writing skills to produce the piece that I am using as my Soapbox this month. I wish it was as easy as he wrote to make the changes he is suggesting. I am pleased that I can offer you a little bit of Craig...I think you will find it worthy of your time to read and your thoughts...

It's Time for an Upgrade.

Almost everyone is aware of the concept of software upgrades. A given program or operating system starts out with version 1.0. Shortly thereafter, small corrections are issued, variously identified as 1.1 or perhaps 1.13, each one supposedly fixing some deficiency. Some of those are little things, and some are focused on larger improvements. Now and then one is an Emergency Patch, after some near-fatal flaw that somebody discovered.

But now and then the list of potential improvements and needs has grown so large that an entirely new version is needed. The first really viable version of Windows was 3.1, and now we're up to Windows 10, with some interesting numbering work done along the way.

After looking at the last couple of years I think it's time for an upgrade. I'll admit that much of what I've studied is in the United States, although there are similar issues elsewhere around the world. I tend to think the best thing is to simply make the installation of this upgrade universal. You may be wedded to the version you currently use, and I understand that, but sorry...it's time to change.

Somewhere back in time humans first appeared upon the earth. Without getting into an argument about when and how, the fact remains there was, at some point, a Day One. To use a very modern terminology, those people came with Humanity 1.0 as their default software/operating system. It got us through the Ages...the Iron Age, the Bronze Age, the Little Ice Age, and even the Middle Ages and the Age of Enlightenment. However, it's apparently no longer enough.

So...I'm going to propose that every human being...EVERY HUMAN BEING...be upgraded to Humanity 2.0.

Now, since rollouts of software upgrades are always accompanied by fantastic claims of wonderfulness, features you simply can't live without (entirely possible in this case), and new features that you'll likely never use, I should probably share a similar promotional package of words.

When you upgrade to Humanity 2.0, here's what you get:

Version 2.0 will disable your discrimination module. That means you will no longer judge others by their external appearance. What a joy to find that:

- The black man you see walking down the street will suddenly become a fellow Human Being
- The woman who rings up your purchase will suddenly become a fellow Human Being
- The child struggling on the plane will suddenly become a fellow Human Being
- The severely obese person will suddenly become a fellow Human Being
- The man in the wheelchair will suddenly become a fellow Human Being
- The homeless person with the beard and dirty clothing will suddenly become a fellow Human Being
- The old Asian person using a walker and slowing foot traffic will suddenly become a fellow Human Being

In short, everyone, literally EVERYONE, will, first and foremost, appear to you as a human being. You will immediately discover everyone around you, regardless of outward appearances, has the same dreams and desires that you yourself have.

Humanity 2.0 will also limit the effects of the several hormones and chemicals that regulate the brain. The effects of the Greed Emotion will be limited. The Jealousy Center will be largely disabled. And perhaps most importantly, the Race Sensitivity portion of the system will be disconnected from the fight-or-flight controller.

Written by Craig Allen

Editor's Note: This truly sounds like a great upgrade!



ANSWERS, Inc.
"Whatever the Question"

PLEASE FEEL FREE TO VISIT OUR WEBSITE:

WWW.HRANSWERS.COM

- Judy Clark, President

