



advantage



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Disasters - Are You Prepared?

September is Disaster Preparedness Month. Just listen and watch the recent news reports and there is good reason for this special recognition. We know that accidents happen, whether natural or human-made, and your organization needs backup plans to protect your data, your customers, and ultimately your bottom line. It also means being able to assist all employees for your business continuation.

Each organization and region need to consider what is most likely to occur or to be experienced and then to plan and prepare accordingly. Changes in our climate have also forced businesses to consider going beyond “normal” thinking about what could be experienced and when certain activities could be encountered – seasonality is not what it used to be.

Here are some key steps of Emergency Management, prevention, mitigation, preparedness, response, and recovery.

Prevention

Actions taken to avoid an incident. Stopping an incident from occurring. Deterrence operations and surveillance.

Mitigation

Refers to measures that prevent an emergency, reduce the chance of an emergency happening, or reduce the damaging effects of unavoidable emergencies. Typical mitigation measures include establishing building codes and zoning requirements, installing shutters, and constructing barriers such as levees.

Preparedness

Activities increase a community's ability to respond when a disaster occurs. Typical preparedness measures include developing mutual aid agreements and memorandums of understanding, training for both response personnel and concerned citizens, conducting disaster exercises to reinforce training and test capabilities, and presenting all-hazards education campaigns.

Response

Actions carried out immediately before, during, and immediately after a hazard impact, which are aimed at saving lives, reducing economic losses, and alleviating suffering.

Response actions may include activating the emergency operations center, evacuating threatened populations, opening shelters and providing mass care, emergency rescue and medical care, firefighting, and urban search and rescue.



Recovery

Actions taken to return a community to normal or near-normal conditions, including the restoration of basic services and the repair of physical, social, and economic damages. Typical recovery actions include debris cleanup, financial assistance to individuals and governments, rebuilding of roads and bridges and key facilities, and sustained mass care for displaced human and animal populations.

We encourage you to create plans. You can work with the Red Cross, the Society for Human Resource Management (SHRM), and local agencies to assist with getting started. If you already have a plan(s) in place, terrific! When was the last time you had them reviewed? Perhaps a to-do for 2023?

Employee Productivity Tracking

Working from home is now possible for so many more individuals. In the McKinsey American Opportunity Survey 58% of the respondents said they can work remotely at least one day a week with 35% having the option to work from home the entire week.



With more people operating outside of the office some organizations are stepping up worker tracking or so-called “tattle wear” or surveillance software. That is where supervisors, through company-issued devices, are able to “keep tabs” on their employees using such methods as keyboard usage, screen time, and number of clicks.

In a New York Times investigation 8 of the 10 largest private employers in the U.S. track productivity metrics of their workers often in real time leading to many employees being subject to scores, trackers, idle buttons, which can lead to lost wages and in some cases even terminations according to the Times.

Now to be fair, this activity is usually happening in organizations with 500 or more employees and industries and job do matter. However, caution needs to be considered on both sides of this equation.

Business ethics professor JS Nelson suggests that employers need to think about the reasons behind the why of intermittent photographing employees working or their computer screens, listening through microphones, the number of keystrokes logging software, or recording what is being typed at any given time, what website employees are visiting, who they are communicating with, etc.

In interviews and in hundreds of written submissions to The Times, white-collar workers described being tracked as “demoralizing,” “humiliating” and “toxic.” Micromanagement is becoming standard, they said.

But the most urgent complaint, spanning industries and incomes, is that the working world’s new clocks are just wrong: inept at capturing offline activity, unreliable at assessing hard-to-quantify tasks and prone to undermining the work itself.

Some say all this has increased productivity and transparency and it is a benefit. What is crucial is the impact on employees. If they do not feel the ability to have control over what’s happening how will this affect their behavior at work? Perhaps they will feel less responsibility to do good work, to be the best employee, to be engaged, etc.

A challenge in all of this is that there is real work that falls outside of tracking data capabilities including face-to-face meetings. You simply cannot track all the behaviors that go into a successful workday. The goal is to continue to focus on employees’ work outputs.

As these practices have spread, so has resistance to what labor advocates call one of the most significant expansions of employer power in generations. TikTok videos offer creative ideas and tips on how to outsmart the systems including a “mouse jigglers,” a device that creates the appearance of activity.

A key question many would be asking is are organizations obligated to tell their workers they are being monitored? Legal experts and ethical practice and best practice would suggest being upfront and tell employees what the expectations are, the kind of monitoring which is in place, and what kind of systems you are using. A special note: this can also be a grey area depending on where you operate your business so be sure to check your state laws.

From an employee perspective they have to decide if they are okay with the policies and activities of the organization. Do they want to the job, keep their job, or do they feel they need to move on? Employees should have a conversation, talk to their boss, and talk to HR and ask how that data is being collected and how is that data being used. At the end of the day if everybody's doing the right thing, we're all good.



Charging Administrative Fees to Terminated Plan Participants

If you have former employees who have left their balances in your company's employer-sponsored retirement plan, you do have some options. First, you may be able to force anyone with a vested balance of less than \$5,000 to take a distribution, depending on the "force-out" provision adopted in your plan document. Many plan documents even require that these participants be forced out each year.

But what about those with a vested balance over \$5,000, who the law says must be allowed to remain in the plan even if they left your company years ago? It still adds an administrative burden to have their accounts active, and may add to your plan's administrative costs as well. To offset this, the IRS and Department of Labor (DOL) allow you to adopt a provision charging a "reasonable" administrative fee to the accounts of terminated employees.

What is considered reasonable?

The legal guidelines don't set a number in stone. The idea is that the fee amount should offset any costs (both in-house labor and third-party vendor fees) incurred by the plan sponsor for maintaining the account but should not be used as a way of generating revenue. The fee must be stated in the participant fee disclosure, and the plan sponsor should maintain documentation on how the fee amount was calculated. Generally, a fee in excess of \$100 per year would not be considered reasonable.



How can I start charging this fee?

The first step will be to contact your third-party administrator (TPA) to discuss your plan's provisions and options. The plan document may or may not need to be revised, and you will need to send updated disclosures to all eligible participants anytime the plan's cost structure changes. Once you have the green light from your TPA, it's time to set your administrative procedure for how and when to charge the fee. Keep in mind that this is a fully manual process you will need to follow each year, and

generally requires significant work that can't be fully outsourced to any plan service provider.

While it is possible to set a rule such as "the fee will be charged each year on the anniversary of your termination date," it could make a lot of extra work for you to be tracking all those dates. The simplest thing is to choose one day a year on which all of your terminated participant fees will be charged.

You'll also want to set a rule for who the fee will be charged to – for example, if you charge the fees on May 1 each year, it might not be fair to include someone who just left their employment on April 15 and hasn't had much time to consider or act on their distribution options yet, especially since someone who leaves employment on May 15 would get almost a full year to act before being charged.

Most commonly, plan sponsors choose to assess the fee sometime in the spring, around March or April, to anyone who terminated on or before December 31 of the previous year. You can use a rule like this as a guideline and adjust the specific dates to fit your business needs. The details of the rule you choose are not as important as making sure that it's fully documented and applied consistently and equally so that there's no appearance of discrimination.

How does charging the fee work?

The actual process will vary depending on your plan's investment provider. The basic guidelines are fairly standard across the board, though:

1. It will be the plan sponsor's responsibility to set and follow the administrative procedures. Neither your plan's investment provider, financial advisor, nor third party administrator will track whether the fee is being charged.
2. It's best to send out a notice each year at least 30 (but not more than 90) days before charging the fee, encouraging participants to take a distribution to avoid it. This might help motivate some of them to take action so that your list of ex-employee accounts grows shorter over time.
3. The plan's investment provider will have their own specific form or Letter of Instruction format that they will want to receive from a plan trustee each time with specific instructions on who to charge, how much to charge, and what to do with the money.
4. The money deducted from participant accounts can't simply be returned to the plan sponsor. It must be used to offset specific administration costs. Generally, this is demonstrated by having the funds sent directly from the plan provider to the TPA as an offset against their fees.



If you are considering adopting a charge to terminated participants or need help with setting your policies and assessing the fee when the time comes, email the team at The Commerce

Company at newsletter@thecommmco.com. We are always happy to assist.

Content prepared by The Commerce Company. The Commerce Company was founded in Portland in 1995 and provides corporate retirement and investment planning for small to mid-sized businesses throughout the Northwest. Contact us at www.thecommmco.com or 503-203-8585. This information has been obtained from sources considered to be reliable, but we do not guarantee that the foregoing material is accurate or complete.

Paid Leave Oregon...Is Your Organization Ready?

All employers in Oregon will provide Oregon employees a Paid Leave benefit. On Jan. 1, 2023, if your business has 25 or more employees, you will start paying into the program. If you have less than 25 employees, you will only be required to take the employee deduction. Employers may “opt out” by offering [an equivalent benefit](#). On Sept. 3, 2023, employees can start applying for benefits.

Benefit Eligibility:

- Employees who made \$1,000 or more the year before applying for Paid Leave and are experiencing an event that qualifies them for paid leave may be eligible (learn more about qualifying events below.)
- Whether an employee works a full-time, part-time, or seasonal job – or for more than one employer – they may be eligible.
- Those who are self-employed, independent contractors, or Tribal governments can choose to elect into the program but do not have to.



Benefits:

- An employee can take up to 12 weeks off from work in a year. In some situations, they may be able to take up to two more weeks, for a total of 14 weeks.
 - While on leave, Paid Leave Oregon pays the employee an amount of their wages. You, as the employer, do not pay them.
 - The amount an employee gets paid will depend on how much they have earned. Some employees may receive 100% wage replacement.
- Employees' jobs are protected. It is against the law for employers to treat any employee badly or to fire them for taking time off through Paid Leave Oregon.

- Employees have the right to return to the same job role if they've worked for you for more than 90 days.

Getting Ready:

Step 1: Prepare to make payments.

- Employers pay 40% of the contribution rate. Based on the number of employees you have and the amount you pay in salaries, you can calculate ahead of time how much you will need to pay. For example, if your business has more than 25 employees and pays \$1 million in payroll, you would pay \$10,000 into Paid Leave Oregon each year. Of that amount, 40% totals \$4,000. That's how much you will pay.
- You must post a notice for your employees about Paid Leave Oregon

Step 2: Get ready to collect payments.

- Employees fund 60% of the program's costs through their paychecks.
- If your business already uses a payroll company, they can subtract the employee's contribution so you don't have to.

Step 3: Review your leave policies.

- Evaluate your policies and procedures for alignment with the provision of this additional leave.
- Determine if modification is needed to balance the new leaves with operational needs.
- Provide notice to employees about any changes made to your policies.

The rules for this program have not been completed. Some portions are finalized; others are in draft format. We will be watching this closely and provide education opportunities as more information is available. The Oregon Employment Department will be administering this insurance program. Employers can [find more information here](#).





client accolades

[JR Merit](#) is celebrating 25 years in business. JR Merit is an industrial contractor in Washington state providing hydropower, mechanical piping, millwright, civil concrete, and more. Congratulations!

[LMC Construction](#) had its Grand Opening of Rockwood Village in Gresham at the end of July. LMC is a general contractor and construction management company. Looking Good!

Lauren Dalton of [Brown and Brown](#) and Kathleen Quandee of [Pacific Coast Fruit Company](#) were awarded the 2022 HR Leadership Award from Peer 150. Keep up the good work!

The following clients were recently recognized by the Portland Business Journal as being the among the healthiest employers in 2022:

- [Port of Portland](#)
- [Lane County](#)
- [PeaceHealth](#)
- [City of Eugene](#)
- [Arnerich Massena](#)
- [Deschutes County](#)



hr links

Are You Ready? “Unprecedented times.” “The new normal.” “The great reset.”

You’ve heard these phrases repeatedly. And it’s true: The recent pandemic and other world events have accelerated us towards an environment of merciless business transformation, changing work arrangements, the need to embrace a more inclusive, purpose-driven culture and to make growth opportunities more accessible and more personal than ever before.

The methods of how we live, work, collaborate, communicate, engage, and produce will never be the same.

To help guide businesses forward, Cornerstone and BLR asked talent practitioners around the world what they have to say about rebuilding a future that works for all, and compiled it together into this a free guide.

We thought you might me interested in taking a read. [Meet the Future- US.pdf \(blr.com\)](#)



whatever the question

Q: We understand labor law posters need to be posted where employees work. Now that we have employees working remotely what are we supposed to do? Do we need to do anything differently?

A: Labor law posters need to be posted in a conspicuous location where employees report to work each day. When employees come to the office that can be accomplished fairly easily. Employees view posters placed in break/lunchrooms, near common entrances, or next to a time clock. But you do need to make adjustments for employees who are working from remotely?

A note of clarity – it is not just one law that this applies to. Every time a law is passed, it includes many provisions, and one of them could require employers to display a poster that includes information about the law. This isn't part of every law, but there are more than 350 federal, state, and local laws that contain a posting requirement. The goal of these requirements is to make employees aware of the law and their rights. These provisions are often found in laws relating to federal, state, or local minimum wages, discrimination, and family and medical leave.

To comply with electronic posting requirements for remote workers, employers need to make sure workers can easily access the posters. This means employers need to ensure that:

- Employees do not need to ask for permission to view a file or access a computer.
- Employees have been told how to access posters electronically.
- Employees can easily determine which postings apply to them.

To meet these requirements, electronic posters can be placed on an internal or external website, shared network drive, or in a file system that is always accessible to employees. Employers can place information about how to access the posters in an employee handbook. This helps show that employees have been made aware of how to access the electronic posters. To make the electronic postings accessible, employers can consider offering a link on an intranet. To help employees understand which postings apply, employers can group them as federal postings (which apply to all covered workers) and by state. Postings that apply to employees who are working on federal contracts can be grouped together as well.

This dual approach to posting requirements — physical posting for on-site workers and electronic posting for remote employees — could very likely be the way posting regulations are heading. Electronic posting makes sense for workers who aren't coming into the office yet still need to know about workplace rights. Physical posting is still a viable solution for on-site workers since it's a visible way to share information about the law. Posting information exclusively online would

diminish the impact physical posters convey. However, online posters are a practical option for workers who aren't regularly in the office.

The growing popularity of remote work led the Department of Labor (DOL) to issue guidance on electronic posting in late 2020. It recognized that employers had questions and looked to the statutes for answers.

When it comes to whether or not electronic posters are required for remote workers, the DOL looks at the makeup of an organization's workforce. The agency draws a distinction between employers with no remote workers, some remote workers, and employers whose workforce is completely remote.

NO REMOTE WORKERS	SOME REMOTE WORKERS	ALL WORKERS ARE REMOTE
When all workers report to a worksite.	When a business has some employees who work from home and some who work in an office/warehouse, etc.	When all employees telecommute.
<ul style="list-style-type: none"> Paper posters must be conspicuously displayed where they are visible to workers. Electronic postings can be used to supplement physical posters. 	<ul style="list-style-type: none"> The DOL encourages employers to use electronic postings for remote workers. Hardcopy posters must be displayed in an employer's physical locations, even when electronic postings are available. 	<p>Electronic postings alone meet posting requirements if:</p> <ul style="list-style-type: none"> All employees exclusively work remotely. Employees usually get information from the employer electronically. Employees have readily available access to electronic posting at all times.

Is there a question you would like us to answer?

Email the question to info@hranswers.com and include the subject "newsletter question". We will publish the answer in our next issue.



hr by the numbers

"Mental health disorders often lead to other medical problems. For example, NAMI reports individuals with depression are 40% more likely to develop cardiovascular or other metabolic disorders, and 32% of adults with mental illness also experience a substance abuse disorder."

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A new phenomenon that is surfacing is called the great regret. According to a survey done by The Muse (themuse.com) almost 3/4 of job seekers experienced either surprise or regret with their new position or company. They stated, "It was very different from what I was led to believe". In addition, nearly half of those surveyed, 48% said they would try and get their old job back. They are calling this "Shift Shock".

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Hybrid work by the numbers:

96% of people who started working remotely due to COVID-19 want to continue working remotely at least some of the time for the rest of their careers. *Source: Buffer*

55% of employees would prefer to be remote at least 3 days a week. *Source: PwC*

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\$11,000 — the amount you'll gain in productivity per employee, per year with a half-remote work week. *Source: Global Workplace Analytics*

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30% of employees say they are likely to switch jobs if forced to return to fully on-site work.

Source: McKinsey

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98% of meetings will include participants joining from home.

Source: Cisco

HR Capabilities Directly Correlated With Growth

High Growth Companies Have Significantly Superior HR Skills

(Percent higher capability for high-growth companies)



Methodology:

Among 7,800 HR professionals we correlated these skills against annual revenue growth.

The organizations with the highest growth rates (about 7%) outperform in these HR skills areas, measured against the average.

Data provided by Josh Bersin. July 26, 2022. Data from [Global HR Capability Project](#) with 7,300 HR professionals who completed assessment.



thoughts to think about

"Bravery is not the absence of fear. It's taking a step towards the unknown in spite of the uncertainties ahead." Mayme Doumbia

"We are what we repeatedly do. Excellence, then, is not an act, but a habit." Aristotle

"Being humble means recognizing that we are not on earth to see how important we become, but to see how much difference we can make in the lives of others." Gordon B. Hinckley

"If you talk about it, it's a dream, if you envision it, it's possible, but if you schedule it, it's real." Tony Robbins

"As I walked out the door toward the gate that would lead to my freedom, I knew if I didn't leave my bitterness and hatred behind, I'd still be in prison." Nelson Mandela

"Opportunities? They are all around us. There is power lying latent everywhere waiting for the observant eye to discover it." Orison Swett Marden

"Kind words are short and easy to speak, but their echoes are truly endless." Mother Teresa

"I feel that there is nothing more truly artistic than to love people." Vincent Van Gogh

"Educating the mind without educating the heart is no education at all." Aristotle

"The smallest act of kindness is worth more than the greatest intention." Oscar Wilde

calendar of events



07 HR Lunch Bunch: The Mental Health Crisis - A Conversation About Workplace Solutions



14 Professional Practices: Job Descriptions - A Valuable Resource in Risk Mitigation and Compliance

20 Essential Skills: Conflict Resolution for Leaders



21 Professional Practices: Corrective Action



07 Supervisory Short: Stay Interviews



12 Professional Practices: Americans with Disabilities Act



13 Interviewing for Culture



18 Professional Practices: Prevention of Discrimination, Harassment, and Retaliation



25 Professional Practices: HR Compliance - What You Don't Know Can Hurt You.

27 Essential Skills: Delegation

REGISTER

calendar of events



02 HR Lunch Bunch: What is Registered Apprenticeship?
Creating a New Workforce Development Strategy

02 Professional Practices: Employee Leaves - Protected, Discretionary, Paid or Unpaid

04 Supervisory Short: Teambuilding

08 Generations

09 Workplace Civility

10 Essential Skills: Managing Change



10 Professional Practices: Auditing Oregon Pay Equity



29 Professional Practices: Conducting an Effective Internal Investigation

30 Preventing Employees from Becoming Plaintiffs



FREE

Three-part series!

The Great Resignation - Challenges, Opportunities, and Implications **September 28th**

Retaining Your Talent **October 12th**

Workforce Attraction and Retention: Insights from the Field **November 16th**

LEARN MORE

on my soapbox

A phrase I hear very often is something like..."it is just like a family.." I hear it from clients, I hear from commercials on TV, I hear it when I am overhearing others. I bet you hear it often yourself. I perceive that it is supposed to be a positive remark because it is spoken about in such glowing terms. But if you think about it, is it really positive? If everyone is positive, grateful, caring, and upbeat all the time is that really what being like a family is?



Think about past Thanksgivings or the Summer Y'all Come picnics. If yours are like most gatherings, there are hugs for each new arrival. There are smiles all around, and questions about how people are. There are recitations of any big events or changes in lives. There is the sharing of new pictures on people's phones. Once everyone is gathered and seated for the meal, conversation may no longer be with everyone, depending on the number of people present. If there is a substantial number of folks, then conversation is with those closest to you. Knowing this, people try to sit next to folks they are fond of instead of the one or two people they struggle with.

It may be my cynical thought process or maybe it is just that I have an accurate assessment. I don't know. But apart from the waxing poetic that people do talk about family in the most pleasant way, there is the way family members talk at other times. After the get-together there are different, and often unkind remarks, about the family members they just saw. They are disgusted by the way Uncle Harry continually burps and doesn't say "excuse me." They are frustrated by the way Aunt Ellen interrupts every conversation with sad stories of her health. They are critical about nephew Bob who never brings an item of food for the family meal, and explains that he doesn't have any money because where he works rips employees off. (Note: does he try to get another job? Heavens no, that would take action on his part and mostly he just lays around when not working at his "awful" job.) And then, there is cousin Jerry who is 9 years old. He can't or won't sit still, won't play any games that he supposedly loves, wants to taste everything before the meal is served so is constantly underfoot during meal preparation, grabs at peoples' clothing to get their attention, and then he decides to chase the dog throughout the house or park wherever is the gathering venue.

People in families can argue. I know families who have rules that politics, religion, and the right way to raise children are verboten topics when they are gathered. It sometimes makes for a more peaceful occasion. However, it is always possible to find another subject for disagreement.

I have a theory that the reason some family gatherings are loud and arguing is because it is safe to do so. Yes, families can argue, disagree, and dispute each other's opinions or suggest, not too

civily, that the person they are arguing with is not too bright. But putting all that bluster aside, they are still related and there is a strong bond that survives the family arguments and put-downs. It is safe to fight because the relationship endures and, let's face it we aren't with the whole family all the time so we can be patient and understanding when we are all gathered together. So, the next time you hear someone compare a group of people to a "family," you might ask them to describe what they think that word means.

If people in organizations, groups, or employees are thinking about all of the behaviors when they talk about being like a family, then I have no issue. But if they are glamorizing the concept of family, thinking only about the good stuff, that isn't accurate. And if someone is listening to that representation of the workplace, the church group, or the bowling team then they might not realize that the words are wishful, not realistic.

I wish for everyone that they have a strong family that loves, argues, cares and is there for each other. If it wouldn't start a disagreement, maybe the definition of family could be a topic at your next Thanksgiving.

Judy Clark, Principal and Founder

To see more of Judy's writing and read the history of HRA Answers, [visit our website](#).

Editor: Deborah Jeffries, SHRM-CP, PHR, CPC: **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 resources professionals and labor relations professionals. If you have questions about the content, an opinion about the information, or questions about your subscription, please call us at 503-885-9815 or email us at info@hranswers.com

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