



advantage



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Giving Thanks

We wanted to send a special note to our readers and say THANK YOU for being wonderful clients and friends! We value and appreciate you! We also enjoy being a resource for you and helping you when the need arises. From all of us at HR Answers, we wish you a wonderful month of THANKSGIVING!



An End To Remote I-9's?

As we know, in March of 2020, ICE (Immigration and Customs Enforcements) postponed the actual inspection obligation. The requirement was suspended to accommodate employers facing COVID-19 pandemic lockdowns and the abundance of remote work. ICE permitted employers to inspect I-9 documents over video link, fax, or email, and obtain, inspect, and retain copies of the documents within three business days of hire. At the time of the announcement, employers were warned that these changes were to be temporary.

ICE has extended the expiration date of the remote verification rule change several times. The most recent extension occurred on October 11, 2022, extending the accommodation until July 31, 2023. However, in the press release announcing the extension, ICE hints that this may be the last extension.

The press release states:

"Employers are encouraged to begin, at their discretion, the in-person verification of identity and employment eligibility documentation for employees who were hired on or after March 20, 2020, and who presented such documents for remote inspection in reliance on the flexibilities first announced in March 2020."

It is prudent and appropriate for you to continue to follow your hiring processes. If you have been asking for and reviewing I-9's in-person over the last several years, continue with your process. The key: Don't initiate a new process. Employers have no authority **to demand** the production of I-9 documents while the accommodation is still in place. According to the legal field this could have employees see it as a threat to their continued employment or claim that it creates some kind of illegal harassment or discrimination. If you are considering making a change to your process it may make sense for you make a quick call and consult with counsel. Any request should clearly state that participation is voluntary and that no adverse action will be taken against an employee who does not comply.

P.S.

On October 12, 2022, the USCIS (U.S. Citizen and Immigration) announced that employers should **continue to use the current Form I-9 after its expiration date of October 31, 2022, until further notice**. It is anticipated that the Department of Homeland Security will publish a new one-page Form I-9 in the coming months. Thus, until the new version of the Form I-9 is published and effective, employers should continue to use the current version of the I-9 form.

Employers Adjust Background Screening Standards

You might feel like you are suffering from whiplash as you adjust your background screening standards. All through 2022, many employers have responded to the labor shortage by loosening criminal history standards – or not running criminal background checks at all. This is also occurring with drug and alcohol testing. Another common trend has seen employers start workers in their jobs before they get background check results returned. But a coming together of three events has now caused employers to begin to return to their previous standards:

- Some industries have begun to experience a softening of the labor market, which permits employers to be choosier when hiring;
- An increase in negligent hiring claims related to newer workers who may have been disqualified in a normal labor market; and
- Increased pressure to provide safe workplaces given the recent rise in shooting violence.



This dynamic will lead to a growing area of tension in the upcoming months as employers aim for a happy medium and employees and candidates adjust to a “new” new normal.

As you look toward 2023, now would be a good time to review your third-party relationships to make sure you are all on the same page when it comes to background check compliance.

This includes making sure when you use third parties that they are in compliance with:

- FCRA’s technical notice requirements – like disclosure, authorization, and pre-adverse notifications.
- Or staffing firms obtaining background reports during hiring, employers may have expectations that those staffing organizations will follow FCRA procedures – but this isn’t

always the case, and you could find your organization facing legal exposure for their mistakes.

These third-party relationships are an extension of you as the employer, so you want to ensure their process matches yours. In addition, once you decide you would like to roll the employee over to your payroll and make the individual part of your employee base and no longer an employee of the temporary firm, please conduct your own reference check, drug screens and background check on the “new” employee so those records are now part of your employee file.

A special thank you to Fisher Phillips as the main content of this article came from an article produced by Michelli Rivera and Rich Millisor.

Washington Employers - Required To Post Salary Info

In an effort to promote pay equity Starting January 1, 2023 Washington employers with 15 or more workers will no longer be able to simply wait until the time a job offer is made to talk salary, but instead include salary and benefits in all job postings.

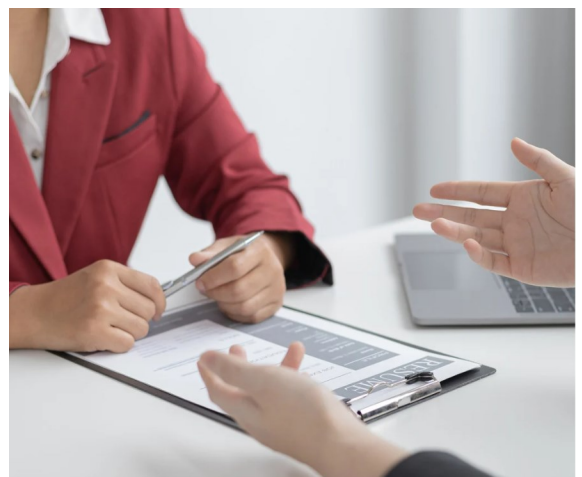
Here are some things to know to prepare and be in compliance.

As a reminder in 2018, Washington state added a myriad of amendments to its [Equal Pay and Opportunities Act \(EPOA\)](#). In addition to pay equity requirements, there were also **pay transparency provisions** that protected employees’ rights to discuss their compensation freely without fear of retaliation. Those amendments all remain intact.

[The 2019 amendments to the EPOA](#) additionally required employers to disclose a minimum wage or salary for an applicant’s position. Such a disclosure was only required after an employee had been offered the job, and even then, only upon the employee’s request. That law applied to internal postings and promotions, only applied to businesses with 15 or more employees, and let individuals sue or file a complaint with Labor & Industries.

These new amendments repeal some of those 2019 amendments. Specifically, the new law will soon require employers to disclose a lot more information for new job applicants. Starting January 1, 2021, employers must:

- provide a wage scale or salary range for each job posting (as opposed to just a minimum);
- include a description of all benefits and compensation to be offered in the posting (as opposed to just wage or salary); and
- publicly advertise these disclosures along with the job ad (as opposed to only after an offer and upon request).



Other parts of the 2019 disclosure rules remain intact. Notably, while the 2022 amendments will change how employers externally advertise job openings, they will still be bound by the 2019 rules when it comes to internal postings, promotions, and transfers. So, for these types of positions, employers are only required to provide a salary range or wage scale upon request — not in the posting. The minimum employee threshold and the remedy provisions will also remain intact. Since there are some differences in the requirements for internal and external job posting it makes sense for you to develop one approach for external postings and another approach for internal postings.



External Job Postings - The new law will require you to disclose a minimum and maximum compensation for any position. The law will apply to any solicitation you use to attract applicants, including printed job announcements or digital job board postings. The posting must also include a description of other benefits and compensation to be offered. It applies to job ads posted through recruiters and third parties as well.

Internal Job Postings - For internal postings, the rules have been slightly modified. The employer is required to provide wage scale or salary information only “upon request of an employee offered an internal transfer to a

new position or promotion.” But the law eliminated the prior option of providing minimum wage or salary expectation instead if “no wage scale or salary range exists.” In other words, there must be a wage scale or salary range for the position available in case the internal candidate requests it.

If you have not done so already here are several steps you should consider as you prepare for the new law:

1. Develop a plan to create a wage scale or salary range for all positions and how to make necessary adjustments. This may involve working with a compensation analyst or conducting a compensation audit.
2. Develop a process by which you will consistently publish that information in connection with external job postings. If you use third-party hiring services or recruiters, make sure you communicate clearly with them about their need to comply with this new law when it comes to your postings.
3. Consider an internal audit of current employee salaries to make sure there are no significant discrepancies. At best, such anomalies could lead to discontent and employee attrition once

you must start including salary information on job listings. At worst, they could lead to an equal pay lawsuit. This new law coming into effect is a perfect opportunity to launch a pay equity audit to ensure that your entire workforce is compensated fairly and appropriately. We encourage you to give our consultants a call to learn and discuss how we can assist you in this activity. We are happy to answer any questions you have.

Benefits Update

Perhaps a little late, perhaps timely given that many employers are in the middle or just finished their benefits enrollment but here are a couple of things employers should know.

Employees can put an extra \$200 into their health care flexible spending accounts (health FSAs) in 2023, the IRS announced on Oct. 18, as the annual contribution limit rises to **\$3,050**, up from \$2,850 in 2022. The increase is double the \$100 rise from 2021 to 2022 and reflects recent inflation.

If the employer's plan permits the carryover of unused health FSA amounts, the maximum carryover amount rises to **\$610**, up from \$570.

Also, tax-exclusion limits for employer-sponsored commuting benefits and adoption assistance programs are also rising for 2023 due to cost-of-living adjustments (COLAs).

Plan sponsors should act quickly to update payroll and plan administration, along with open enrollment communications, to account for the changes.



Side Note: The IRS released [2023 HSA contribution limits](#) in April, giving employers and HSA administrators plenty of time to adjust their systems for the new year. The individual HSA contribution limit will be \$3,850 (up from \$3,650) and the family contribution limit will be \$7,750 (up from \$7,300).



The IRS announced (October 21st) employee 401(k) contributions for 2023 will top off at **\$22,500**—a \$2,000 increase from the \$20,500 cap for 2022—the IRS announced on Oct. 21. Plan participants age 50 or older next year can contribute an additional **\$7,500**, up \$1,000 from 2022.

The limit on total employer-plus-employee contributions to defined contribution plans will increase to **\$66,000** in 2023, up by \$5,000 from \$61,000 in 2022.

The IRS announced the 2023 adjustments for 401(k) and similar defined contribution plans, and for defined benefit pension plan, in [Notice 2022-55](#).

10/4/22 ALERT: Paid Leave Oregon - The Poster Is Available

The Oregon Employment Department has published the [model notice poster](#) for Paid Leave Oregon. Every employer is required to post notice by January 1, 2023, if they have not received approval of an equivalent plan application (optional). As a reminder, the notice needs to be posted in a conspicuous place, at each employer location, and sent or made available electronically for remote (Oregon) workers. If you would like more information about Paid Leave Oregon, please visit the [Employment Department website](#). You may also want to participate in one of our upcoming webinars:

[November 15th: 10:00 am - 11:30 am](#)

[December 1st: 10:00 am - 11:30 am](#)

We also have a recording of our webinar, **Overview: Paid Leave Oregon**, which can be purchased by clicking [here](#).

If we can be of assistance with this topic, or anything else, please reach out.

**Paid Leave Oregon**

What you need to know

Starting in September 2023, Paid Leave Oregon will serve most employees in Oregon by providing paid leave for the birth or adoption of a child, your or a loved one's serious illness or if you experience sexual assault, domestic violence, harassment, or stalking.

What benefits are provided through Paid Leave Oregon and who is eligible?

Employees in Oregon that have earned at least \$1,000 in the prior year may qualify for up to 12 weeks of paid family, medical or safe leave in a benefit year. While on leave, Paid Leave Oregon pays employees a percentage of their wages. Benefit amounts depend on what an employee earned in the prior year.

What are my rights?

If you are eligible for paid leave, your employer cannot prevent you from taking it. Your job is protected while you take paid leave if you have worked for your employer for at least 90 consecutive calendar days. You will not lose your pension rights while on leave and your employer must keep giving you the same health benefits as when you are working.

How is my information protected?

Any health information related to family, medical or safe leave that you choose to share with your employer is confidential and can only be released with your permission, unless the release is required by law.

What if I have questions about my rights?

It is unlawful for your employer to discriminate or retaliate against you because you asked about or claimed paid leave benefits. If your employer is not following the law, you have the right to bring a civil suit in court or to file a complaint with the Oregon Bureau of Labor & Industries (BOLI). You can file a complaint with BOLI online, via phone or email:

Who pays for Paid Leave Oregon?

Starting on January 1, 2023, employees and employers contribute to Paid Leave Oregon through payroll taxes. Contributions are calculated as a percentage of wages and your employer will deduct your portion of the contribution rate from your paycheck.

When do I need to tell my employer about taking leave?

If your leave is foreseeable, you are required to give notice to your employer at least 30 days before starting paid family, medical or safe leave. If you do not give the required notice, Paid Leave Oregon may reduce your first weekly benefit by 25%.

How do I apply for Paid Leave?

In September 2023, you can apply for leave with Paid Leave Oregon online at [paidleave.oregon.gov](#) or request a paper application from the department. If your application is denied, you can appeal the decision with the Oregon Employment Department.

Web: [www.oregon.gov/boli](#)
Call: 971-245-3844
Email: [help@boli.oregon.gov](#)

Learn more about Paid Leave Oregon
Web: [paidleave.oregon.gov](#)
Call: 833-854-0166
Email: [paidleave@oregon.gov](#)

State of Oregon
Employment Department

Paid Leave Model Notice Poster



client accolades

In a recent issue of Oregon Business Magazine, they recognized [The 100 Best Nonprofits To Work For In Oregon In 2022](#) and some of our clients made the list. We would like to say a special **CONGRATULATIONS** to:

| LARGE ORGANIZATIONS | |
|--------------------------------|---|
| 50 or more Oregon employees | |
| 1 | <i>Mental Health & Addiction Association of Oregon</i> mhaoforegon.org |
| 13 | <i>Portland State University Foundation</i> psuf.org |
| 20 | <i>Exceed Enterprises</i> exceedoregon.com |
| 21 | <i>Metropolitan Family Services</i> metfamily.org |
| MEDIUM ORGANIZATIONS | |
| 20 to 49 Oregon employees | |
| 30 | <i>Columbia River PUD</i> crpud.net |
| SMALL ORGANIZATIONS | |
| Fewer than 20 Oregon employees | |
| 5 | <i>CASA of Clackamas County</i> casa-cc.org |
| 18 | <i>Community Partners for Affordable Housing</i> cpahoregon.org |

We also want to say **HATS OFF** to Schwabe, Williamson & Wyatt who found themselves #2 on the [Powerlist of Law Firms, Based on # of Attorneys on Staff](#).



hr links

Employers in today's tight job market are continually looking for ways to recruit and maintain top talent from a diverse slate of candidates. Doing so can be difficult, however, as there are limits to which employers, recruiters, and staffing firms can go in building such a slate. This HR Link, provided by Littler Mendelson (law firm), shines a spotlight on some ways to help attract a diverse candidate pool without running afoul of anti-discrimination laws.

[Littler Lightbulb: Highlighting 25 Tips in Recruiting a Diverse Workforce | Littler Mendelson P.C.](#)



whatever the question

Q: We recently had an employee apply for an internal position and we did not select them. We are not sure we handled the situation as best we could, and we are worried about the morale of the employee going forward. Can you give us some input on how best to handle this situation in the future?

A: You are right this can be an awkward and uncomfortable situation. It is a hard conversation and yet it can be one for improved communication and coaching. Here are some things to consider:

1. Ensure you have followed your selection process. Your current employees should apply for a job promotion formally and go through interviews just like outside applicants. And the way you evaluate internal and external candidates should be largely identical, ensuring the position goes to the best-qualified person.

Remember: if your employees feel they have been fairly considered for promotions, it will be much easier for you to break the news that you've chosen someone else.

Plus, going through the interview process helps internal applicants understand your expectations and the job responsibilities, shifting their focus away from tenure or other reasons why they believe they *deserve* to step up.

2. Resist the tendency to put off or rush the conversation. It's natural to want to delay an emotionally tough meeting – or to move through one as fast as possible.

But having this type of conversation with an employee either too late or too quickly may be detrimental for several reasons:

- Employees may quit if they come away feeling disrespected or devalued.
- Employees may become disengaged or poor team players.
- It may damage team morale, as other employees who also have aspirations of being promoted may be watching how you handle the situation.

That's why it's important to plan a face-to-face meeting with the employee as soon as possible. As a courtesy, this person will hear from you *before* news hits the office rumor mill. A good rule of thumb is for you to think about how you would like to be treated if the situation were reverse.

3. Be sure to prepare your talking points in advance. With any delicate conversation, it's best to come to the meeting with your talking points ready to share. This helps you communicate effectively, enables you to listen more attentively, and stay on task.

Role playing with a trusted colleague may be helpful especially if you anticipate any pushback.

This gives you an opportunity to think about the words you will use as well as how you will react (including body language) to potentially challenging moments.

4. Empathy is key. This is a great time to put yourself in their shoes and see things from their perspective. Show as much empathy as possible, taking time to acknowledge their disappointment.

Highlight what the employee's current contributions mean to the team and thank them for stepping up to apply. Acknowledge that it took courage to seek the promotion.

Then, be open and honest about why you didn't select the employee for the job. Give concrete examples to help reduce the emotional response.

For example, is there another career track or advancement opportunity that might make a better goal based on the employee's skills and experience?

Above all, work toward helping your employees leave this type of conversation feeling confident about their strengths and abilities and secure in their current role.

5. Plan for a future development conversation. The employee may ask you how they can be better prepared for future advancement opportunities.

It's a good idea to express your willingness to work with the employee. Make a plan to schedule a separate meeting to work out the details of an individual development plan. This also allows time for both parties to process the conversation that took place.

Be sure to let your incoming employee know that there were internal candidates for the position without using their names. This insight helps your new hire show sensitivity to the situation and can improve the team dynamics.

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

Following the Great Resignation, millions of workers are shifting to new roles. In fact, 48% of those who quit their job in the past two years have moved to a different sector. As job-hopping gains more popularity, employers need to be more open to applicants that are switching careers. ([Paycom](#))



If working parents within your organization are struggling with work-life balance, you're not alone. According to a [FlexJobs survey](#), 53% of working moms and 51% of working dads say managing a career makes it hard to be a good parent. A healthy work-life balance is not only good for your employees, but also for business.



According to a recent [Deloitte survey](#), 40% of Gen Z workers would like to leave their current jobs within 2 years. Where are organizations missing the mark when it comes to retaining this generation? Organizations must consider whether they are providing the same level of efficiency that Gen Z is used to in their personal lives.

A key component to this is enabling a consumer-grade tech experience that mirrors the ease of use Gen Z is accustomed to. To achieve this, companies must elevate their IT practices and technology to enhance the overall digital employee experience (DEX).



Currently, [67% of employees](#) say the digital experience in their personal life is better than what they receive at work. **Ninety percent of employees** also believe there's a connection between

DEX and workplace happiness. Therefore, organizations must ensure their technology never stops serving their people. (Forrester Research Company)



According to a Paycor survey they asked 783 business owners and leaders in HR and Finance to share their top priorities in the next 12 months. The results are below:





thoughts to think about

"We don't need more strength or more ability or greater opportunity. What we need is to use what we have" ~ Basil S. Walsh

"A warm smile is the universal language of kindness." ~ William Arthur Ward

"Once you get people laughing, they're listening and you can tell them almost anything." ~ Herb Gardner

"Luck is a matter of preparation meeting opportunity." ~ Oprah Winfrey

"Happiness is a conscious choice, not an automatic response." ~ Mildred Barthel

"There cannot be a crisis next week. My schedule is already full." ~ Henry Kissinger

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

15 Foundations of Leadership

15 Overview of Paid Leave Oregon



29 Professional Practices: Conducting an Effective Internal Investigation



30 Preventing Employees from Becoming Plaintiffs



Success for New Supervisors

Begins February 7, 2023
Every Other Tuesday | 8:30am to 12:30pm

[REGISTER](#)

calendar of events



01 Overview of Paid Leave Oregon

02 Supervisory Short: Stress Management



06 Onboarding: Jump Start for New Employees



07 Employee Recognition

07 HR Lunch Bunch: Compensation



08 Emotional Safety



13 Professional Practices: Fair Labor Standards Act -
Tips and Tricks to Compliance Success



14 Interviewing for Emotional Intelligence

29 Essential Skills: Life Balance



06 Supervisory Short: Leadership

10 Managing Remotely



11 Emotional Safety in the Workplace



12 Professional Practices: Employee Handbook—Your
Guide to Consistency

18 Essential Skills



19 Professional Practices: Auditing Oregon Pay Equity



25 Self-Care for HR



26 Professional Practices: HR Auditing - The Basics

[REGISTER](#)

on my soapbox

I receive a lot of email subscriptions from a variety of sources. Some are about HR compliance; some are about soft skills; and some are the thoughts and learnings of others in the people business. From time to time, I have shared their writings in this space because I think they have value, and sometimes it is that I wished I would have written it. This is one of the latter. It is from Jay Gubrud. His information is at the bottom of his text.



Less Right, and more Welcome

Through my life, I continuously worked to improve my communication and emotional intelligence. Part of achieving those objectives involves the words I use. Certain words prove productive, while others do the opposite and raise other's defenses. The words we use can affect the quality of our lives, the jobs we get, people we attract to our lives, how we get along with others, our leadership ability and much more.

Over the last five plus years, I have noticed two phrases that have increased in use in the United States, and it bothers me! I have talked with others, personally and professionally, and it bothers them too. They are the words "right" at the end of a statement and "no problem" as response to thank you.

It's not the words themselves that is the issue, it is when they are used and the frequency that they are being used. Unfortunately, I am also guilty of doing the exact thing that bothers me. But I am working hard to be self-aware and use these words in the most effective manner.

Right: There was a mental health professional who is a regular guest on a local TV talk show. During their segment, they used the word "right" at least 10 times during a five-minute period. Every time they were a guest on the show, you could count on 10-12 "rights" during their segment. The frustrating part is that they had such important information to share, however much of it could get lost with their instance on making you silently agree as they kept using the word "right".

In my opinion, when you repeatedly say "right" you are dismissing your opportunity for dialogue or disagreement. You are making an absolute statement and requiring the listener to agree with your premise. I believe, using the word "right" sparingly in communication doesn't cause a problem, it is when it is used excessively that it can cause a problem and be off putting to the listener.

No problem: When we use the phrase "no problem" as a response instead of "thank you", we are doing two things. First, we are dismissing the gratitude others have expressed by saying

“thank you”. That can easily be viewed as bad manners by the “thanker”. Second, we may be implying that there was an imposition on the part of the “thanker”.

Someone recently told me that they bought three new Apple iPhones recently and thanked the associate for their help. The associate said, “no problem”, this made the customer feel like they were an imposition, when, in their mind, it was the opposite. They had spent a lot of money and provided multiple sales for that associate, and they were responding with “no problem”.

I don't know if you feel the same way as I do about these words and how they can impact our communication? What I do know is that you are entitled to have your own opinion on this topic and do what pleases you, right?

Next time you find yourself using the word “right” too often, take a few of them out of your dialogue in your next communication. If someone says “thank you,” just say “you are welcome.”

About Jay Gubrud:

For over 20 years, Jay Gubrud has helped corporations, associations, their boards and members eliminate roadblocks to their success. His theme is very unique and one everybody can relate to ... Cars and Driving! Jay's articles on performance improvement are shared with over 10,000 people around the world. You can reach Jay at www.jaygubrud.com and 651-635-9939.

Judy Clark, Principal and Founder

To see more of Judy's writing and read the history of HR 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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