

Looking Ahead at 2014 Workplace Trends

Human Resources Professionals Next Challenges

The closing of one year and transitioning to the next always presents a conundrum for HR professionals. While many processes stay the same from one year to the next, like onboarding and open enrollment, many things change. Those areas that change are hugely unknown, until more information is available. It can be likened to viewing a painting on a wall across the room. You know it is beautiful and as you get closer and see the detail of the subject and the painter's careful brush strokes, you then come to appreciate its artistic and monetary value. A good example of this is the Affordable Care Act (ACA) which was passed into law in 2010. It was so overwhelming and was difficult to comprehend the detail and impact on HR processes that it wasn't until we moved closer to the implementation dates that a clearer picture emerged. Granted, there are still many things yet to be determined in the Act, but this is a good illustration of how our focus becomes clearer the closer we get and the more information we have.

Because planning is vitally important for HR professionals, it is necessary to understand workplace trends, which many times provide the perspective and focus needed to ready an organization for whatever lies ahead. Most Human Resource professionals are currently preparing their organizations for the new year with new rules and legislative changes on both the state and federal levels, while tending to the collective needs of their workforce. To make this preparation a little easier, we have compiled a list of some of the changes and trends employers may need to consider in 2014, along with action plans to help stay compliant.

Healthcare Reform – Since we just mentioned the healthcare reform law briefly, this is one trend on which to keep watch. Under the healthcare reform law, employers with 50 or more workers will have to provide health insurance in 2015 or pay a penalty. To avoid the penalty, it is anticipated that some employers will either lay off full time workers or utilize temporary or part time help to stay under the threshold requiring them to “play or pay” or they will simply postpone hiring.

Action Plan: Healthcare reform is moving forward and is now a fact of life for employers, employees, and well, all Americans. Whether you are a small employer (less than 50 workers) or a large employer (50 or more workers), healthcare reform will necessitate that employers decide based upon their organization's strategy, what plan of action they intend to take to comply with this law. Some of these decisions may affect recruiting and hiring practices as well as benefit offerings, and whether or not they will utilize a health and wellness plan to help offset some of the costs of affordable care, such as penalizing smokers with higher health insurance premiums. As more information becomes available, these critical decisions will be more focused and easier to make.

Ban the Box – Even before the Equal Employment Opportunity Commission (EEOC) released guidance on criminal background checks, some states had already begun to “ban the box.” This term refers to eliminating the box on a job application that inquires as to whether an applicant has a criminal history. As of November 2013, ten states had passed legislation banning the box on job applications for public employers, with four states including private employers. This trend has been moving through municipal legislation as well and is unusual because of the impact it has on employers at the local level. Though all the laws ban the box, they vary in the timing of when an employer can inquire about the criminal history of

an applicant. The four variations are: 1) After the initial application has been submitted; 2) At the first interview; 3) After the first interview; and 4) After a conditional offer of employment.

Action Plan: With the variations in state and municipal laws, employers will need to consider their hiring process and ensure whether they are in a state or municipality that bans the box on job applications, and then act accordingly. Multi-state employers may find this challenging, and may decide to err on the side of caution and choose to ban the box for all their locations.

Generational Shift – We have heard a lot of information about the aging Baby Boomers and how quickly they are exiting the workplace due to retirement. A Society for Human Resource Management (SHRM) workplace forecast indicates that 68 percent of employers anticipate a major impact on workplaces in the next five years when this mass exodus is likely to occur. This demographic shift is very real and will more than likely add to the creation and continuation of skill gaps. The same SHRM forecast stated that 73 percent of employers will feel the impact of a shortage of skilled workers during this same timeframe. On the upside of that, younger generations Gen X and Gen Y, also known as Millennials, will vie for the vacancies created by their departure.

Action Plan: It is estimated that in 2014 nearly 30 percent of the workforce will consist of Millennials and is expected to increase even more over the next few years. With this in mind, employers will need to make sure they are planning for the culture shock that may be experienced by their company as the demographics shift. Arranging for Boomers to share their knowledge with the younger generations in the workforce will help the organization to bridge any skill gaps before they become chasms. A review of job descriptions would be helpful in this endeavor, ensuring the company has the proper knowledge and skills identified for each position as the training commences, keeping in mind that people readiness is key to succession planning.

Worker Classification – The misclassification of independent contractors versus employees continues to be on the legislative agendas. Worker misclassification not only costs the affected employee and the employer, but the entire economy as well. Misclassified employees are often denied access to critical benefits and protections, such as family and medical leave, overtime, minimum wage and unemployment insurance, all to which they are entitled. The problem also generates substantial losses to governmental funds, such as the Treasury and the Social Security and Medicare funds, as well as to state unemployment insurance and workers compensation funds. It is no wonder such effort is justified.

Action Plan: Employers should perform a self-audit to ensure any independent contractors are classified correctly. The U.S. Department of Labor provides guidance on how to determine whether an individual is an independent contractor or an employee for purposes of the Fair Labor Standards Act. Significant factors are based on the total activity or situation in which the individual performs services. Such things as the permanency of the relationship, nature and degree of control by the principal, and the individual's opportunities for profit and loss are just a few of the key elements listed. More about this may be read [here](#).

Supreme Court Docket – We would be remiss if we didn't mention some of the key cases on the U.S. Supreme Court's 2013-2014 term agenda. The **National Labor Relations Board v. Noel Canning** case will be heard to determine if the recess appointments of three of the NLRB board members were unconstitutional because they did not occur as a result of an intersession recess of the Senate.

Other Supreme Court Cases – The Supreme Court agreed to hear another controversial matter in the ACA regarding the mandate for employers to cover contraceptives. The ACA requires insurance companies to cover certain preventive services for women with no patient out-of-pocket expense. Two cases will go before the Court this term, **Sebelius v. Hobby Lobby Stores** and **Conestoga Wood Specialties v. Sebelius**. Both cases surround corporations that wish to decline providing contraceptive services to employees, due to the religious beliefs of the owners. The court will consolidate these cases and won't begin hearing limited arguments until the spring.

Action Plan: Keep a close watch on the outcome of **NLRB v. Noel Canning** case. The Court will decide if any of the decisions or actions of the Board members in question will be recognized or invalidated. The Court's decision could impact some employment policies that were ruled in opposition to Section 7 of the National Labor Relations Act, chilling employees' rights to protected concerted activity to discuss terms and conditions of employment.

Anything to do with the ACA will be of interest to all employers, whether or not they are concerned with the contraceptive mandate, because these aren't the first cases decided about the legality of parts of the healthcare reform law. That fact alone indicates these probably won't be the last.

New Rules for Federal Contractors – Beginning March 24, 2014, federal contractors will be required to follow two new rules designed to improve hiring and employment of veterans and people with disabilities. The new mandates include more accountability of employers and more record-keeping in the areas of recruitment, hiring, training, and promotions. Quantifiable metrics to measure the success in recruiting and employing each class has been identified. For veterans, federal contractors must adopt a benchmark either based on the national percentage of veterans in the workplace, or their own benchmark based on the best available data. Federal contractors must also implement a hiring goal of 7 percent of each job group in their workforce and ensure they are filled with qualified individuals with disabilities. Such rules apply to subcontractors as well.

Action Plan: Employers who are federal contractors or subcontractors will need to update their affirmative action policies to incorporate veterans and individuals with disabilities. A review of current record-keeping and reporting processes and those that are now required, may indicate the need to re-train recruiters and hiring managers to understand the implications of these new rules. Self-identity forms previously used should now reflect the pre-offer and the post-offer invitations to self-identify as one of these protected classes.

While your HR planning list has certainly grown, we have not exhausted all the new laws and trends for 2014 for which employers must be aware. We certainly hope we have brought you closer to these topics and have clarified your focus on the actions to take to maintain your compliance with these new laws, revised laws, and workplace trends. Even though the future has yet to make history, some things are for sure:

- there are always policies to update,
- talent to recruit,
- laws with which to comply, and
- employees to keep happy.

Be brave and forge ahead into a successful 2014!

Sources: Schawbel, Dan. “The Top 10 Workplace Trends for 2014.” Available [here](#).

www.shrm.org

www.dol.gov