

From: Business Management Daily

Subject: Practical HR strategies to boost your career

## In The News ...

**Salary budgets will continue to rise** at above-average rates next year due to a labor market with more open jobs than people to fill them. Employers are budgeting for overall 4.1% salary increases in 2023, compared with 4.0% this year, according to a Willis Towers Watson survey—both the largest increases since 2008.

**HR has the highest turnover rate** of any job function, says a new LinkedIn report. Globally, HR turnover ran at 14.6% over the past year, compared with the 11% overall average turnover rate. One reason: Demand for recruiters spiked as the labor market tightened. Read the full report at [www.tinyurl.com/turnoverHR](http://www.tinyurl.com/turnoverHR).

**Employers could soon have more flexibility** when examining the documents employees present to verify their eligibility to work. Since 2020, U.S. Immigration and Customs Enforcement has permitted employers to conduct virtual I-9 document inspections for new employees working remotely; on Aug. 18, ICE issued a notice of proposed rulemaking that could eventually make this flexibility permanent. The proposed rule would not automatically authorize virtual I-9 document review, but “create a framework” adopting alternative options for document examination. Read the notice of proposed rulemaking at [tinyurl.com/ICE-I9-inspection-rule](http://tinyurl.com/ICE-I9-inspection-rule).

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## Remote work sparks more off-the-clock claims

Employers often (wisely) tell hourly workers not to work unscheduled overtime, not to work during meal breaks and to avoid other off-the-clock work. But frontline managers may send mixed messages by suggesting workers need to go “the extra mile” to achieve productivity goals.

The consequences are predictable: a Fair Labor Standards Act lawsuit in which workers claim they had no choice but to work off the clock to meet expectations and keep their jobs.

This is becoming an especially big problem with remote employees because it’s hard to see when they’re working extra hours or taking their scheduled breaks.

**Advice:** Make clear to hourly staff to not work unscheduled overtime

and during unpaid breaks. Encourage managers to monitor this issue. If employees break those company rules, don’t use monetary punishments, but follow your typical discipline policy.

Finally, make clear that supervisors should never explicitly tell employees to work off the clock.

**Recent case:** Marc, a nonexempt hourly claims adjuster for an insurance company, filed an FLSA lawsuit against his employer. He said his boss



told him the company didn’t want hourly workers to report overtime hours they may have worked.

However, according to Marc, almost every other claims adjuster routinely worked overtime hours and skipped their meal breaks in order to meet the company’s productivity

*Continued on page 2*

## Better benefits emerge as keys to retention

With the tight labor market showing little sign of abating, the importance of health and retirement benefits to attract and keep workers has soared to its highest level in a decade. The number of employees willing to pay for more generous benefits has rebounded following a dip during the pandemic.

Those are among the key findings of a recent survey of more than 9,600 U.S. employees by the Willis Towers Watson consulting. As you gear up for open enrollment this fall, remember these perspectives:

**Employees value benefits more now than before the pandemic.** A full

60% of employees cited good retirement benefits as an important reason they stay with their current employer, compared with 41% in 2010. Nearly half said their company’s retirement programs (47%) and healthcare benefits (48%) were important reasons why they joined their employers, versus just 25% and 32% in 2010, respectively.

Employees are willing to have more money deducted from their paychecks to pay for better benefits. Nearly six in 10 employees (59%) said they would pay more for a larger, more generous retirement benefit,

*Continued on page 2*

## Remote work

(Cont. from page 1)

expectations. Some worked 50 or more hours per week.

The lawsuit contends these workers felt compelled to work the extra time (and not report it) because putting in just an eight-hour day would mean they would be considered underperformers at performance-review time. The lawsuit is now being considered for class-action status, which would allow all the claims adjusters to get a piece of the damages pie. (*Pugliese v. GEICO, DC MA*)

## Better benefits

(Cont. from page 1)

up from 54% in 2020 (see page 5). Nearly half of employees (46%) would forgo more pay for a more generous healthcare plan versus 36% in 2020. The number of workers willing to pay more for both benefits had dropped between 2019 and 2020.

**Employees prize financial security and work flexibility.** The most important benefit employees want employers to focus on is retirement (44%) followed by flexible work (39%). Among those who want their employers to focus on retirement, 62% seek a guaranteed retirement benefit, 58% want more generous retirement benefits and 53% are interested in retiree medical benefits.

Within the group of employees who rated flexible work as an important benefit for employers to focus on, half (50%) want more generous paid time off and sick leave, while 47% are seeking more remote work options.

**Health benefits remain a priority.** For 33% of employees, benefits that help them manage their health are highly valued. Of those, 46% want a more generous healthcare plan, 42% said health screenings and risk assessments would help them manage their health and 37% prefer a more generous dental plan. More than a quarter of employees (27%) ranked receiving more help managing their emotional health a top priority.

# Make sure your discipline policy has the ability for quick-trigger terminations

Progressive discipline policies are great for correcting the behavior of employees. But always leave yourself an “out” for those cases in which retaining the employee just doesn’t make sense.

Your discipline policy needs the freedom to terminate workers for especially egregious mistakes or dangerous behavior without risking allegations that you treated one worker more favorably than another.

Make sure your discipline policy includes a clause that allows you to bypass the next steps in your progressive discipline process—or jump directly to termination—when the situation warrants. Document your reasoning in case of later legal action.

**Recent case:** Derek, an assistant police chief in Washington state, had no discipline blemishes on his record for 27 years. But one day, a police officer spotted in Derek’s office an insignia that had been used during World War II by high-ranking Nazi officers.

City officials brought in an out-



All progressive discipline policies should have an “out” to bypass discipline for especially egregious behavior or mistakes.

side law firm to investigate. The firm concluded that Derek understood the nature of the insignia.

At first, the city simply suspended Derek for two weeks as punishment, citing his clean record. But when word of the insignia led to public outcry, the city placed him on administrative leave and asked him to resign. He refused.

Derek’s lawyers negotiated a \$1.5 million settlement in exchange for his resignation. The city, citing what it believed would be an expensive and uphill battle to force Derek’s resignation, agreed to the payout to end the matter.

**Online resource** For a five-step model approach to progressive discipline, go to [www.theHRSpecialist.com/discipline](http://www.theHRSpecialist.com/discipline).

## Student loan repayment is a hot perk; structure it the legally safe way

In this hot labor market, repaying employees’ student loans is one of the most valued new benefits—and that perk is about to get more valuable. That’s because the federal government set a “payment pause” during the pandemic that suspended student loan payments. That was set to end on Aug. 31.

If you’ve been thinking about adding this benefit, now is a good time. But it’s important to structure the benefit in the correct way.

Many organizations require employees to sign an agreement promising to repay the benefit if they quit or get fired within a specific time period—often one year—after payments have been made. But that can run afoul of both state paycheck laws and the fed-

eral Fair Debt Collection Act.

The repayment agreement may also qualify as credit under the federal Truth in Lending Act, triggering its own set of compliance obligations.

Thus, trying to recoup the loan payments from the employee’s last paycheck may violate rules on final pay or leave for employees earning less than the minimum wage for their last pay period. If you use an outside firm to recoup student loan payments, you may also have to comply with federal debt collection rules under the FDCA.

**Advice:** Structure student loan repayment benefits so they kick in after employees have met their obligation to remain with the company for a specific period of time.



## Intermittent leave abuse? Demand new cert

If an employee's doctor approves intermittent FMLA for a chronic condition, the person can essentially take time off whenever the condition flares up. Employers typically must wait six months to question intermittent leave certifications.

But if you suspect the employee is abusing his intermittent leave, you can (and should) demand recertification sooner.

**Recent case:** Brandon's doctor filled out an FMLA certification form saying he'd likely need intermittent leave as often as a week per month due to his severe depression. The call-offs began in that pattern but increased dramatically. At one point,

he took 16 days off in a row.

HR asked the psychiatrist to recertify his need for the leave, even though the original certification was only three months old. Brandon didn't provide a new cert—or return to work.

He was fired and then sued. The court tossed out his case, saying the company could request recertification sooner than six months because Brandon's absences were a "significant change" from the originally approved leave. (*Whittington v. Tyson Foods*, 8th Cir.)

**Online resource** Read "How to collect medical info under FMLA rules" at [www.theHRSpecialist.com/FMLAdoc](http://www.theHRSpecialist.com/FMLAdoc).

## When is stress considered a 'disability'?

If employees cite stress as the reason for leave or another accommodation, are you legally obligated to provide it? It depends. But the more serious/debilitating the stress and anxiety, the more likely you'll need to accommodate it.

**The FMLA** lets employees take job-protected leave for serious conditions that make the person unable to perform the job's essential functions. Stress or anxiety may be severe enough that it could

rise to the qualifying level of a hospital stay or require incapacity or ongoing treatment.



**The ADA** protects qualified workers who (with or without a reasonable accommodation) can perform the job's essential functions. ADA-covered disabilities are "physical or mental impairments that substantially limit one or more major life activities." Being generally stressed at work won't likely reach the level of a disability.

## Know when to call police in harassment case

Employees' serious allegations of forced contact and groping call for a robust response from the employer.

Any sexual touching can be classified as sexual assault. Most states grade assault along a spectrum that includes sexual touching such as forced kissing and continues up through rape.

**Recent case:** "Jane Doe" was an inspector at a Michigan dairy plant. Soon after she began the job, her boss requested a sexual relationship. When she rejected his advances, he allegedly

became physical, forcibly kissing and groping her.

She complained to HR. But HR simply suggested she go home for the day. She did and never returned. Instead, she called the police. Her boss was criminally charged with fourth-degree sexual assault. In addition, the EEOC sued the company on Jane's behalf, saying HR ignored her pleas to stop the harassment. The company agreed to settle the case for \$175,000. (*EEOC v. Konos*, WD MI)

## A \$118 million lesson in gender-equity pay

Google settled a class-action suit by 15,500 female employees in California alleging the company paid women less than male counterparts who performed substantially similar work across 200+ different jobs. The main mistake: Google set starting salaries using a process called "leveling at hire" that left many women behind from the start. The final tab: \$118 million.

**The lesson:** With pay rates rising, now's a good time to conduct a pay-equity review to see if you're at risk of a gender pay discrimination lawsuit.

## Talk of 'long-term' tenure can spark age-bias lawsuit

A 62-year-old pharma worker applied for a transfer that was ultimately given to a 33-year-old applicant. The hiring manager's reason: He wanted someone who would "be in the position long-term." The EEOC has now filed an age-discrimination suit—you can expect a settlement soon. (*EEOC v. Novo Nordisk, Inc.*)

**Advice:** Just one misguided phrase from a manager can cost big bucks in court. An employee's age should play no role in your employment decisions.

## Remind bosses: Don't punish staff who complain about safety

A federal jury in Massachusetts ruled that a construction company reported an undocumented worker to U.S. immigration officials after he voiced a complaint about workplace safety. The jury awarded \$200k in damages against the company and another \$400k in punitive damages against the company's CEO, who encouraged the employee's detention by ICE. (*Acosta v. Tara Construction*)

**The lesson:** Retaliating against employees who voice complaints about safety is an instant loser in court and with OSHA.



## More child-labor cases = more enforcement

If you hire workers aged 17 or younger, be aware that the U.S. Department of Labor said last month that it is “stepping up employer outreach and enforcement” of child-labor laws. One main reason: The agency says it has seen an increase in child-labor violations in the past few years. The majority of these violations revolve around young workers’ safety, hours worked and compensation. For the DOL’s links to child-labor laws and guidance, go to [www.dol.gov/agencies/whd/child-labor](http://www.dol.gov/agencies/whd/child-labor).

## E-Verify ends pandemic flexibility on SSNs

During the pandemic, employees were given extra time to resolve discrepancies found in E-Verify between their Social Security numbers and government records. But that flexibility has now ended. Employees are again required to contact their local Social Security Administration office within eight federal working days (the norm before the pandemic) to begin resolving a mismatch. Employees whose E-Verify cases were referred to the SSA between March 2, 2020

and July 14, 2022 will continue to benefit from the extended time.

## Paid family leave provision dropped from IRA law

The landmark Inflation Reduction Act of 2022—a huge collection of federal changes on climate change, health care and tax laws—was passed in Congress and signed by President Biden on Aug. 16. But the law does not include two key workplace provisions that were in the original bill, including paid family and medical leave for workers nationwide. The good news: The law also didn’t include a provision that would have increased penalties for employers that violate federal labor laws.

## Secret Service case: A lesson in litigation holds

The U.S. Secret Service found itself in trouble this summer when it failed to comply with Congress’ request to preserve communications related to the Jan. 6 insurrection. Their mistake is another reminder that employers must stop destruction of any relevant documents, emails, phone records, etc., if they know (or expect) that litigation is coming. Failing to follow through on a “litigation hold” can trigger penalties or even default judgments. Learn more about this trap at [www.theHRSpecialist.com/hold](http://www.theHRSpecialist.com/hold).

## HR Q&A:

### How do we fix a long-running overtime error?

**Q.** We discovered an error in our regular rate and overtime calculations. We plan to pay employees retroactively for the missed pay. How far back do we have to go? How should we deal with pay owed to terminated employees, some of whom we don’t have good addresses for? Must we contact the DOL to report the error?

**A.** Go back two years for this overtime pay. The DOL doesn’t have a requirement for dealing with terminated employees, but a best practice is to try to contact them; they’ll return your phone call if they’re due money. You could ask current employees with whom they were friendly to get a contact number. If you can’t find them, hold the wages for possible escheat to the state. If you call the DOL, you’ll only be inviting an audit.



### Employee subpoenaed at work: What’s HR to do?

**Q.** Are we obligated by law to allow a process server to serve summons, subpoenas or court orders to our employees? Must we tell the employee that someone is trying to serve these legal papers? — *Arvis, Wisconsin*

**A.** We are unaware of any law that requires you to assist process servers in locating your employees while at work. Nor must you tell your workers that someone is attempting to serve them with legal papers, although you may choose to do so. Unpleasant though it may be to be served, it is often better to know when a legal action in which you have some interest is moving forward.

### Can voluntary deductions go below minimum?

**Q.** An employee’s deduction for optional health benefits has reduced his disposable earnings to less than the minimum wage. How does the minimum wage apply to this situation?

**A.** This isn’t an improper deduction, even though the employee is left with less than the minimum wage. You can find detailed information about this in DOL Fact Sheet #30 at [www.tinyurl.com/DOLvoluntary](http://www.tinyurl.com/DOLvoluntary).

## Employers expect to enhance retirement perks

Most U.S. employers are eyeing enhancements to their defined contribution retirement plans in an effort to boost their employees' retirement security and financial well-being—and help recruit and retain during this ultra-tight labor market, according to a survey by the Willis Towers Watson consulting firm. It's a perk that applicants and employees want more than ever (see page 1).

Among the many enhancements being weighed are allowing employees to direct their contributions to help pay off student loans or to save for financial emergencies.



Overall, the survey found that 75% of respondents that sponsor a defined contribution plan such as a 401(k) made a change to their plan in the last two years and expect to make at least one change over the next two years.

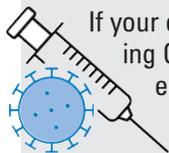
An additional 14% of sponsors that didn't make a change over the last two years plan on making at least one change over the next two years.

Most of the expected enhancements will focus on the employee experience (82%) and financial well-being (78%). Additionally, nearly two-thirds (64%) expect to make changes to their plan design.

More than one in four respondents (28%) expect to make changes to their plans' automatic deferral features, while four in 10 (38%) sponsors expect to adopt an innovative contribution strategy.

These include allowing participants to use their contributions to reduce student loan debt or directing contributions to an emergency savings fund or a health savings account.

## Vax mandates: 5 lessons from the \$10M bias case



If your organization is still requiring COVID vaccinations for employees, pay attention to an important new court verdict.

An Illinois healthcare company recently agreed to pay \$10 million to a group of employees who refused to be vaccinated against COVID based on their religious beliefs.

Rather than considering accommodation options (including telework), the company instead gave a no-option ultimatum: "Get the shot or you're fired." It rejected any employees' requests to telework and told employees that accommodating their beliefs would cause an undue hardship. (*Doe v. Northshore University Health System*, ND IL)

The good news: The same fate won't befall your organization if you follow these simple steps that balance employees' potential religious objections against your business and organizational needs:

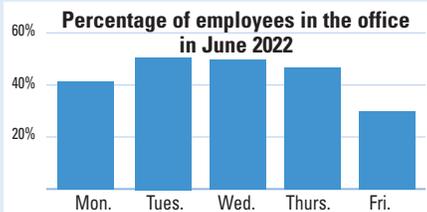
- 1 Handle each request** for a religious exemption from your vaccination policy just as you would any other request for a religious reasonable accommodation.
- 2 Ask for all relevant information** to guide your decision. You can ask about the nature of employees' religious objections to vaccines. You're entitled to enough information to determine if their beliefs are sincerely held.
- 3 Remember, religious beliefs aren't limited** to those held by major religions. They can include obscure sects, as well as beliefs that have been repudiated by leaders of the religion the employee claims to follow.
- 4 Weigh possible reasonable accommodations** in lieu of vaccination. *Examples:* permission to telework, requiring masks.
- 5 Document the entire process.** Be prepared to show how granting exemptions would cause more than a minimal burden on business operations.

## Have employers given up on Fridays in the office?

If it's Friday and you're reading this in your office, you may be a bit lonely.

Fridays in the white-collar world—which used to be synonymous with casual attire, long lunches and early exits—are now a day in which most employees work at home... or not at all.

Just 30% of office workers swiped into work on Fridays in June, the least of any weekday, according to Kastle Systems, which provides building security services. That's compared with 50% on Tuesdays, the day with the highest turnover.



Overall office attendance is still way down from the pre-pandemic days. And even as more employers bring workers back into the office as COVID eases, we'll never see in-office attendance at rates before March 2020.

Employers are split over whether to accept remote Fridays or try to lure employees back to the office for that day. Some companies, like Bolt and Kickstarter, are ditching Fridays completely and moved to a four-day workweek.

If you need employees in the office on Fridays, here are a few ways to lure them back:

- 1 Free lunch.** It can help build community and help employees cut costs. Ask departments to claim one Friday each and pick the menu or food truck.
- 2 Make your office a place people want to go.** Rethink your office layout. Create more ways to enhance social interaction with comfy sofas, lounging areas and meeting pods.
- 3 Use technology.** New apps offer employees a quick snapshot of which staff will be in the office on any given day, along with planned events and perks.

To: \_\_\_\_\_  
 From: \_\_\_\_\_

Date: September 2022  
 Re: Job descriptions for remote staff

## Hiring 8 steps to writing a winning remote job description

While a job description for a remote job includes much of the same information as any job description, there are also some remote-specific elements you should include. According to a recent FlexJobs report, here are eight elements to consider including in job descriptions for remote positions.

### 1. Use the right remote keywords.

Just like you use common and often-searched job titles in your job descriptions, you should also use commonly searched remote keywords. Using

the right remote lingo in the job description helps applicants understand that it's a remote role and helps your job appear in the search results of people looking for remote positions.

Some keywords to include: work at home, work from home, remote, distributed, work from anywhere, virtual, hybrid or home office.

**2. Define "flexible."** Many remote jobs include a certain level of flexibility when it comes to work hours. However, that doesn't always mean staff can work whenever they want. If employees must be "on" during certain hours, call that out clearly in the job description. If you don't, you may find that employees are rarely available during that time, making it difficult to conduct meetings or client business.

**3. Define "remote."** You may need employees to come into the office a day or two a week for meetings or training. Likewise, a position may be remote for a certain amount of time and then eventually switch to a hybrid model.

Define what remote means for the role now and in the future. If the remote aspect of the role is temporary, make sure that is crystal clear in the job description, so there's no room for misunderstanding later.

**4. Clarify the location.** A common misconception about remote work is that someone can live anywhere and still work for a remote company, but that is not always the case. Clarify if there are location requirements for tax reasons or because of local employment laws. Make clear if employees are allowed to work from home, but they must live close to the office for meetings or to be near the client base.

In some cases, you may also need to spell out *why* someone needs to

live in a specific region, such as to visit clients or attend meetings.

**5. Specify where the work can take place.** Beyond a country or a state location, your remote role may have additional location requirements. For example, someone handling sensitive personal information may not be allowed to work from a coffee shop. Even if the work doesn't involve sensitive information, you may not want staff logging into company servers from a public wi-fi connection.

*Example:* "Because you will be handling confidential client information, you must work from your home office. You cannot work in a public location (like a coffee shop or library)."

**6. Describe the equipment.** Be specific about what technology employees need. Do they require a certain kind of computer? What about internet speed or a VPN? Describe all equipment the company will provide, as well as any technical support or equipment stipends you make available.

If you expect employees to provide their own equipment or software, spell out that requirement clearly in the job description. Define what they should have and who is paying for it.

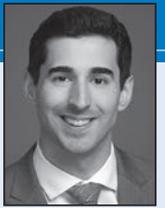
**7. Mention the meetings.** While some positions offer flexibility over daily scheduling, staff may still have to be on call for certain hours, either online or in person. Make sure you include any mandatory meetings in the job description. You don't need to list specific dates and times. You can simply say, "Must attend weekly department meetings" or "Required to attend annual company retreat."

**8. Talk about the interview.** You should define how the interview process will look. For example, be clear whether you'll use Zoom or a virtual office platform or simply a phone call.



### Writing clear job descriptions: 5 tips

- 1. Use specific language.** Instead of a general term like "good communication skills," say the person needs "the ability to communicate company policies to nonmanagerial groups in person and in writing." Instead of saying it "requires heavy lifting," say it requires "the ability to lift 25 pounds repeatedly overhead 10 times per hour while stacking appliances."
- 2. Begin with action verbs** in the present tense, such as supervise, inspect, produce, organize, motivate, educate, administer, compose, analyze and repair.
- 3. Describe the job, not the employee.** If you describe a position in terms of how its previous occupant performed it, you will find yourself looking for a clone of the ex-jobholder.
- 4. Avoid gender-based language,** such as "salesman."
- 5. Update the description as often as needed.** Review job descriptions periodically to ensure they accurately reflect the current responsibilities. Amend them any time an employee's duties change. Review those amendments with the employee.



## Terminating remote staff: Beware the legal hazards

Remote work has exploded since the COVID-19 pandemic began, but with the recent economic downturn, layoffs are beginning to occur. And for the first time, a significant number of remote employees may be included in layoffs.

Layoffs of remote employees present unique legal hazards for employers.

**Final paychecks.** Generally, remote employees are subject to the wage-and-hour laws of the states and localities in which they are physically present and working. An employer's payroll practices for final paychecks in its home state may not be sufficient to meet the requirements of the out-of-state remote employee's locale.

Final paycheck laws vary from state to state. Noncompliance may result in significant penalties. Employers may want to carefully review the final paycheck laws applicable to out-of-state remote employees prior to terminations of employment.

### Access to personnel files.

Nineteen states grant employees the right to access certain employ-

ment documents. State laws on personnel file access can differ greatly regarding, for example, the types of documents subject to review and the permissible procedures for requesting and conducting such reviews.

Employers laying off out-of-state remote employees may face requests for personnel files. Employers may want to review state laws applicable to their out-of-state remote employees to prepare compliant responses to such requests.

**Severance agreements.** The layoff process may include the offer of a severance agreement that provides additional compensation to an employee in exchange for a release of claims against the employer.

In recent years, several states have passed laws placing restrictions on severance agreements. Oregon, for example, prohibits an employer from including terms that would prevent an employee from seeking reemployment with the employer, except in narrow circumstances.

Employers may want to consider creating state-specific severance agreements instead of adopting

a one-size-fits-all approach.

**Unemployment claims.** A wave of layoffs can result in an increase in the number of unemployment claims. An employer can reasonably expect that remote employees will file for unemployment compensation in the states where they work.

The state in which wages must be reported and unemployment tax is due can change as a result of remote work. Unemployment claim filings with out-of-state agencies may lead to state officials' closer examination of an employer's payroll practices with respect to out-of-state remote employees.

If an employer was not properly reporting wages or paying unemployment tax in the appropriate state, this could result in significant penalties.

Employers of out-of-state remote employees may want to carefully review their payroll practices to ensure appropriate reporting of wages and payment of applicable taxes.

*Paul Cirner is an attorney in the Portland, OR, office of Ogletree Deakins, a labor and employment law firm representing management.*



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## You can't pay 'volunteers' with free products

A Chick-fil-A restaurant in North Carolina got some extra-spicy legal heat this summer when it ran an ad seeking "volunteers" to work in its drive-thru lane and earn "5 free entrees per 1 hr worked."

*Remember:* At for-profit businesses, volunteer labor is illegal. You must pay at least the minimum wage.

## Half of firms addressed abortion case with staff

A survey of larger businesses by The Conference Board found that while only 10% of them issued public statements reacting to the U.S. Supreme Court's decision to overturn *Roe v. Wade*, a much larger number (51%) either have addressed or plan to address the issue internally with employees. Most communications were to explain existing healthcare benefits or the company's abortion travel expense benefits. Read the full report at [www.tinyurl.com/AbortionComm](http://www.tinyurl.com/AbortionComm).

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## Monkeypox sparks new bias, harassment risks

While virologists and the general public are quickly learning how the monkeypox virus is transmitted, some employment lawyers are gearing up for the possibility of discrimination and harassment claims stemming from the virus's link to sexual activity between gay and bisexual men.

The latest disease to affect that protected class might spark an uptick in lawsuits, some lawyers fear. They see parallels to the discrimination gay men faced in the early days of the HIV/AIDS epidemic.

Public health systems are struggling with a shortage of monkeypox vaccines. That has them worried that cases will multiply. It has employment lawyers worried that bias and harassment cases will multiply, too.

California and Illinois on Aug. 1 joined New York in declaring state public health emergencies due to increasing numbers of monkeypox cases. New York called the spread of the virus an "imminent threat to public health."

**Advice:** Prepare to remind all employees that you do not tolerate discrimination or harassment. If an employee contracts monkeypox, seek legal advice on whether it qualifies as an FMLA serious health condition.



## Google joins trend toward more frequent feedback

Google is nixing its twice-a-year formal review process in favor of more regular check-ins and feedback, the tech giant has announced. The change in policy comes in response to employee feedback as well as "research, industry best practices, and all that we've learned about how to design processes for fairness and consistency," Google's blog post said.

## Heed federal safety rules on tired, sick drivers

If you employ drivers, it's vital to know the rules on when they must be given breaks, and when they can call out for illness or fatigue. *Example:* Two bus drivers were issued discipline points for calling in to say they were too tired or too sick to drive. One was fired. Federal law says drivers can't operate commercial vehicles if impaired by illness or fatigue. The drivers complained and OSHA ruled that the company illegally retaliated against their safety complaints. Cost: \$145,000 in back wages and damages.

## 'Hangover leave' tops list of fantasy job benefits

The war for talent is forcing employers to get creative with their benefits—and employees are getting creative with their suggestions. According to a poll of 1,200 U.S. adults by YouGov, "paid celebration recovery leave" (also known as hangover leave) tops the "fantasy" perks they'd like to see at their jobs. Other popular benefits on their wish lists: breakup leave (for when a romantic relationship ends), leave for heartsick sports fan when their team loses a big game, subscriptions to dating apps and subsidies to pay for hair coloring/dyeing.

Is there anything more dangerous than crossing the IRS?

# *Payroll Compliance Handbook*

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*Over, please*

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- **W-2s, W-3s, 1099s and more: What errors will land you in the IRS hot seat?** We'll tell you how to avoid them
- **What's the law in your state?** Check out the appendixes for the requirements in your state.

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