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News You Can Use

HR Stories You Might Have Missed

Lessons from the Hollywood strike: 3 valuable takeaways for HR

July 20, 2023

Hollywood's latest drama – a simultaneous strike by screenwriters and actors – hasn't been seen since 1960, before most of today's workforce was even born.

As you've probably heard, the Writers Guild of America (WGA) went on strike in early May, and the Screen Actors Guild-American Federation of Television and Radio Artists (more commonly known as SAG-AFTRA) joined the picket line in mid-July, effectively shutting down Tinseltown.

The situation in Hollywood provides key lessons for HR — even if you aren't working in an industry prone to labor strikes.

1. Demands for more pay

Setting the scene: The issue in the Hollywood strike

Writers and actors want increased pay and specifically more “residual” pay for content replayed on streaming platforms. Is that realistic? And do their paychecks stretch as far as you think?

The average pay in 2022 for an actor in California was \$27.73 per hour, according to the Bureau of Labor Statistics (BLS). Writers and authors, grouped together by BLS, did a bit better. Those working in California earned an average of \$62.18 per hour in 2022. For context, let's not forget that Hollywood is home to a billion-dollar industry. According to Forbes, the film industry made a record-breaking \$100 billion in 2020.

The bigger picture: Back in the real world

Obviously, the growing demand for better pay isn't limited to Hollywood Blvd. Economic realities like ongoing inflation and wage stagnation have undoubtedly contributed to the push for higher wages across nearly all industries in the U.S.

On top of worker demands, evolving legislation – such as pay transparency laws and salary history bans – at state and local levels have also prompted companies to examine pay practices.

The real question is, when it comes to pay, how much is enough?

Recent research from ADP shows just how far apart employees and employers are on compensation. In *People at Work 2023: A Global Workforce View*, ADP researchers found 10% of workers expect a salary increase of more than 15% in the next year. But here's a reality check: A look at pay increases from the previous 12 months “paints a different picture,” researchers noted. How different? Only 3% of worldwide workers actually received such a large pay increase during that timeframe.

Zoom in: What HR can do

In light of the gap regarding pay expectations, HR can take the following steps to prepare for potentially challenging conversations – before getting caught off guard:

- Conduct an internal audit of pay practices and take incremental steps to bump pay as needed. Doing so can help manage employee expectations while showing that HR is committed to an equitable workplace.
- Brainstorm valuable alternatives to keep A-players happy until pay increases can be approved. Of course, money is important, but it isn't the only thing employees value. It's a good idea to have a few out-of-the-box options up your sleeve to offer top talent in lieu of pay increases that don't currently fit into the budget.
- Prepare for unexpected requests – before underperforming employees ask for pay increases. Have a plan in place to communicate exactly what needs to happen before you'll consider having a serious talk about money.

2. Major AI concerns

The scene in Hollywood

Both the WGA and SAG-AFTRA have asked for protections involving the use of artificial intelligence (AI).

Specifically, the WGA seeks regulation of AI to protect its members' job security. And likewise,

SAG-AFTRA has expressed concern about how AI is being used in the industry and is examining how it can help members protect their digital likenesses, voices and performances.

The bigger picture: Back in the real world

The AI-related concerns mentioned by WGA and SAG-AFTRA mirror the unease felt by many employees across the U.S., especially those working in creative and specialized-knowledge fields.

The majority of employees want to know how AI will affect them – and their job security. That's a reasonable response to a rapidly improving technology that is changing many industries.

Even HR pros have pondered what AI means for their future.

The big question – Can AI replace HR pros? – has already been tested. In a recent study, Mineral researchers asked ChatGPT essential HR questions and got mixed results: AI handled some of the simple stuff, but it botched more complex HR tasks.

Zoom in: What HR can do

First, AI should be handled like any other factor that has the potential to change your industry — address the challenge head-on.

AI-related fears about being replaced are real – and company leaders need to talk about it with employees. Here's how HR can take a seat at the table and help lead the company through the transition to AI in the workplace:

- **Create comprehensive AI use policies** that cover compliance, data management, ethical use and security.
- **View AI as a tool** for the company and its employees. Help employees pivot from fear to an innovative mindset. Prepare employees for AI integration by including them in conversations about the new ways AI can potentially help them achieve goals.
- **Provide cutting-edge training** that teaches employees how to effectively use (and fact-check) generative AI. For example, employees need training to spot AI errors known as “hallucinations,” such as non-existent data, fabricated quote attributions and nonsensical ties between unrelated ideas.

3. The cost of shutdowns (and slowdowns)

The scene in Hollywood

In business, when production comes to a halt, companies lose money. The film industry is not immune to that reality. The weekly cost of the 2023 Hollywood strike could top \$150 million, Forbes estimates.

We'll have to wait and see how this cliffhanger pans out.

The bigger picture: Back in the real world

Even strikes outside of Hollywood end up costing a pretty penny. For example, the looming UPS strike may end up costing the U.S. economy more than \$7 billion, according to a study by the consulting firm Anderson Economic Group.

But what if you're not in an industry prone to labor strikes? You can still probably relate to losses based on dips in productivity. Case in point:

Whether it's productivity paranoia or not, many in the C-suite believe remote work has hurt productivity and are demanding employees return to the office. Not surprisingly, the move is not going over well with employees.

That's a potential problem because the knee-jerk reaction — ordering staff back to the office in hopes of revving up productivity — may cause even bigger slowdowns in the form of employee disengagement, or worse, turnover.

Recent research from Gallup found employee disengagement comes with a steep price tag. In State of the Global Workplace: 2023 Report, Gallup estimates low employee engagement costs the global economy \$8.8 trillion.

If you're like many HR pros, you might be wondering: *But what about The Big Stay? Wasn't that supposed to signal an end to the widespread job-hopping that caused turnover headaches?*

It's true that the overall situation has improved. The ADP's research confirmed that both job postings and turnover are down. That's promising news, suggesting more employees will be sticking around.

However, your star employees will always have options to move on, even in markets with fewer job openings. It's more cost-effective to retain top talent than trying to replace them. (If you missed

it, here's a helpful guide to calculate your employee retention rate.)

Zoom in: What HR can do

The first step to preventing a strike (or turnover) is keeping employees engaged and happy in their roles. The need for employee engagement ideas never ends — and again, it's not always about money.

Lensa, an online job search platform, recently analyzed Google search data to find out exactly what workers want — providing valuable insight that can help boost employee engagement and retention. Desired perks included:

- Four-day workweeks
- Corporate social responsibility, and
- Professional development opportunities.

Facing a strike: Do's and don'ts from an attorney

Hopefully, you never have to handle a labor strike such as the one currently playing in La La Land.

But if your employees do decide to walk off the job, what should you do?

Call your labor lawyer immediately, says employment law attorney Jon Hyman. That's a crucial first step because there are two classes of legal strikes:

1. **Economic strikes** in response to complaints about wages, hours or better work conditions, and
2. **Unfair labor practice strikes** in protest of an employer's alleged unfair labor practices.

The law differentiates between the two in how you can respond, Hyman explains. You need to know what you can and cannot legally do to avoid making an already bad situation even worse.

Here are several do's and don'ts, courtesy of Hyman, to be aware of in the event of a labor strike:

- DON'T retaliate against striking workers.
- DO hold striking employees accountable for their own serious misconduct such as threats, violence, or vandalism.
- DON'T make promises to entice employees to abandon their jobs and return to work.

- DO prohibit your managers and supervisors from joining their subordinates on the picket line. The NLRA does not protect managers and supervisors; you can lawfully prohibit them from walking off the job in solidarity and discipline them if they do.
- DO stop paying striking employees. They're not working so why pay them?
- DON'T replace employees out on an unfair labor practice strike. That's an unfair labor practice in and of itself.
- DO consider permanently replacing employees out on an economic strike.
- DO seek a restraining order in court to limit violence, threats, vandalism, and disruptive picketing, if necessary.

[Read this article online](#) 

ADA accommodation: Do you have to help employees with their commute?

August 4, 2023

Does an employer's ADA accommodation duty extend so far as to require it to change an employee's job schedule to help with their commute to work?

A new federal court decision says the answer is "maybe."

And while that's a frustratingly non-committal answer, it means that in the Seventh Circuit (Illinois, Indiana and Wisconsin), there are circumstances under which ADA-covered employers might have to make the accommodation.

Don't take a narrow view

Many may think of reasonable accommodations as on-the-job adjustments that directly help employees perform job functions. But the concept extends beyond that type of help, and it's dangerous – and erroneous – for employers to limit their view of reasonable accommodation in that way.

For example, a leave of absence can be a reasonable accommodation even though it is not a change to the work environment or how a job is done. And in some jurisdictions — including now the Seventh Circuit — employers may need to make schedule-

related changes that help with an employee's commute to work.

This case involved James Kimmons, who began working in a call center for a company called Charter Communications in 2016. Kimmons has cataracts in both eyes, and night driving is unsafe for him because he does not see well in the dark.

Kimmons' shift started at noon and ended at 9 p.m., and it was a one-hour drive to and from work.

Driving at night was tough

Because of his night vision issues, Kimmons asked to work from 10 a.m. to 7 p.m. The employer granted the request, but only for 30 days. It denied Kimmons' request for another 30 days so he could have more time to find a place to live that was closer to work, insisting that the ADA did not require "assistance with [his] commute" to work. It told him to look into public transportation or carpooling with other employees.

But the schedule for public buses just did not work out, and when Kimmons asked Charter for the names of co-workers who lived near him it told him that information was confidential and could not be disclosed. Taxi and ride-share services were not a viable option because they would cost Kimmons more than he was being paid.

Kimmons stopped working for Charter in January of 2017, and the EEOC later sued the employer on his behalf to allege unlawful denial of reasonable accommodation under the ADA.

A lower court ruled for the employer, reasoning that the requested scheduling accommodation was not required "because [Kimmons] did not need any accommodation to perform an essential job function once he arrived at work."

On appeal, a three-judge panel of the Seventh Circuit Court of Appeals reversed the lower court's ruling and sent the case back to it for further development.

Schedule-related help with commute may be required

Here is the gist of the appeals court's ruling, taken directly from the decision:

We have no doubt that getting to and from work is in most cases the responsibility of an employee, not the employer. But if a qualified employee's disability

interferes with his ability to get to work, the employee may be entitled to a work-schedule accommodation if commuting to work is a prerequisite to an essential job function, such as attendance in the workplace, and if the accommodation is reasonable under all the circumstances.

To support this position, the decision pointed to a Second Circuit ruling that said an employer might be required to pay for a parking space for an employee with a disability as well as a Third Circuit decision that said transportation-related accommodations may sometimes be required.

The Seventh Circuit ruling also acknowledged a split of authority on this question. It referenced a Sixth Circuit decision that held a changed schedule for commuting reasons was not required as well as a similar Tenth Circuit ruling.

But it came down on the side of employees, finding that such an accommodation might be required. It added that in analyzing whether a schedule change should be granted for commuting purposes, courts should "emphasize employee responsibility for the factors within the employee's control, without losing sight of the employer's control over work schedules."

As a best practice, employers should carefully evaluate disability-related requests that are made to make a commute safer and provide the accommodation as long as it does not impose an undue hardship.

[Read this article online](#) 

Big changes coming to Form I-9: What HR needs to know

August 4, 2023

The U.S. Department of Homeland Security's Citizenship and Immigration Services (USCIS) has announced new changes to Form I-9, just days before COVID-19 verification flexibilities are set to end.

The new changes include an updated form and a proposed framework for alternative document examination. Here's what HR pros need to know about the new Form I-9 changes.

New Form I-9: What changed?

On July 21, the USCIS issued a notice regarding a new Form I-9, with changes to the form itself and the instructions.

Notably, the new version of Form I-9 will include a checkbox for employers enrolled in E-Verify to signal that they used a DHS-authorized alternative procedure instead of in-person verification.

In addition, the form has several other changes to help streamline the process and make it more user-friendly, including:

- Reduced page counts: The I-9 form is now a single-sided sheet, which can be used with tablets and mobile devices, and the instructions have been reduced from 15 pages to eight
- New supplemental sections: Section 1 "Preparer/Translator Certification" and Section 3 "Reverification and Rehire" area were moved to separate standalone supplements, now "Supplement A" and "Supplement B" respectively, and
- Editorial changes: "Alien authorized to work" has been revised to "noncitizen authorized to work" and clarification has been added regarding the difference between "noncitizen national" and "noncitizen authorized to work."

Other changes include an updated notice on avoiding discrimination with Form I-9, revisions to the "Lists of Acceptable Documents" page and instructions for the new alternative procedure checkbox. The full document lists all changes and updates.

The new version of Form I-9 (Rev. 08/01/23) is available to download on the USCIS website. The older version of Form I-9 (Rev. 10/21/19) will be accepted until October 31, 2023.

Alternatives to physical inspection

A final rule regarding alternative procedures for document inspection was also announced, which allows the secretary of homeland security to authorize "alternative document examination procedures" instead of an in-person review.

An alternative procedure was authorized on the same day in a separate document, which offers "at least an equivalent level of security" as a physical inspection. It allows employers who are enrolled in E-Verify and

in good standing to continue to conduct electronic verifications after August 1, 2023.

In the alternative procedure, employers must also:

- Review copies of employment authorization and identity documents
- Retain copies of all documents examined
- Conduct a live video meeting with the employee, and
- Create an E-Verify case for new hires.

The authorization specifies that inspection must be available to all eligible employees. For example, if a qualified employer inspects documents for the entire worksite, they must do so consistently with all employees.

However, employers can choose to use the alternative procedure with remote employees only, and continue requiring in-person inspection for hybrid and on-site employees "so long as the employer does not adopt such a practice for a discriminatory purpose or treat employees differently based on their citizenship, immigration status or national origin."

Although the alternative procedure is permanent, it's subject to amendment or cancellation by the Secretary.

Proposed pilot program

Despite the alternative procedure only being available to employers enrolled in E-Verify, it seems that ICE is looking at expanding the pool of eligible employers with a new proposed pilot program, announced on Aug. 3.

The program would allow some employers who are not enrolled in E-Verify to inspect documents remotely. Employers enrolled in E-Verify would not be allowed to participate and participants will be limited to a specified size threshold.

Many elements of the pilot program would be similar to the E-Verify version – such as remote document inspection and retention – but would ask participants to track and report data, as well as required training to detect fraudulent documents and anti-discrimination training.

ICE also specified that participating employers may be prohibited from using the verification procedure for certain groups, such as employees

who work on the same worksite or in a hybrid capacity. Alternatively, employers may be given a timeframe to complete a physical document examination after an initial remote inspection.

The pilot is intended “to evaluate a range of potential effects on system integrity,” per ICE, including fraud rates and discrimination within the pilot program versus physical inspection.

Comments are encouraged and will be accepted until October 2, 2023, per ICE.

[Read this article online](#) 

EEOC proposes PWFA regs: 3 key takeaways for HR

August 8, 2023

On Monday, the EEOC unveiled proposed regulations for the Pregnant Workers Fairness Act (PWFA), the pregnancy discrimination law that took effect on June 27.

The agency will officially publish the proposed regs in the Federal Register on Friday. Anyone wishing to submit comments can do so through the Federal eRulemaking Portal using RIN: 3046-AB30.

Highlights from proposed regs

1. Essential job function suspended – for how long?

Unlike the ADA, the PWFA allows employees or applicants to be considered a “qualified employee,” even if they cannot perform one or more essential functions of the job — if the following conditions are met:

1. The inability to perform an essential function is “temporary”
2. The employee will be able to perform the essential function “in the near future,” and
3. The inability to perform the essential function can be reasonably accommodated.

But the terms “temporary” and “in the near future” are not defined in the PWFA. To fill the gaps, the EEOC’s proposed regs define the terms:

- “Temporary” is defined as “lasting for a limited time, not permanent, and may extend beyond ‘in the near future.’”
- “In the near future” means “generally 40 weeks,” the timeframe of an average pregnancy. The proposed rule says essential functions will not always have to be suspended for 40 weeks. Rather, “the actual length of the temporary suspension ... will depend on what the employee requires,” the EEOC explained in a summary.

And here’s the biggest bombshell from the EEOC:

In some cases, the temporary suspension of essential functions may last longer than 40 weeks.

Specifically, the EEOC proposes that the determination of “in the near future” should be made when an employee seeks “each accommodation that requires the suspension of one or more essential functions.”

The EEOC uses an example to explain: If an employee who is three months pregnant asks her employer for an accommodation – suspending an essential job function – then she will be “qualified” because the pregnancy will be over in less than 40 weeks. And then, when she returns to work after giving birth, if she needs another accommodation (a second temporary suspension of an essential job function), then that request must be considered separately, and she will be “qualified” as long as she can perform the essential function within 40 weeks. (*See page 40 in the [proposed regs](#).*)

In a nutshell, the EEOC proposes that the clock restarts “once the pregnancy is over and the worker returns to work after leave.” In the EEOC’s view, this restart is necessary because it would be “difficult, if not impossible” for pregnant workers to predict their limitations and anticipate their needs after giving birth.

2. Reasonable accommodations

The proposed rule is 275 pages – and is chock full of examples to help employers handle accommodation and leave requests. And as anticipated, the proposed regs also include a list of potential reasonable accommodations under the PWFA, such as:

- Frequent breaks
- Sitting/standing

- Schedule changes, part-time work, and paid and unpaid leave
- Remote work
- Parking
- Light duty
- Making existing facilities accessible or modifying the work environment
- Job restructuring
- Temporarily suspending one or more essential job functions (as outlined in section 1)
- Acquiring or modifying equipment, uniforms or devices, and
- Adjusting or modifying examinations or policies.

For more details about each potential accommodation, see pages 55-58 in the proposed regs.

EEOC: 4 accommodations that are almost always reasonable

The EEOC went a step further, creating a short list of “simple modifications that will, in virtually all cases, be found to be reasonable accommodations that do not impose an undue hardship when requested by an employee due to pregnancy.” They are:

Allowing an employee to carry water and drink, as needed, in the employee’s work area

Allowing an employee additional restroom breaks

Allowing an employee whose work requires standing to sit and whose work requires sitting to stand, and

Allowing an employee breaks as needed, to eat and drink.

Proposing these “modest or minor changes in the workplace” are temporary in nature and reasonable in “virtually all cases,” the EEOC aims “to improve how quickly employees will be able to receive certain simple, common accommodations for pregnancy under the PWFA and to reduce litigation.”

For scenario-based examples, scroll to page 70 in the proposed regs.

3. Documentation from medical providers

First things first: Documentation is not required under the PWFA. Similar to the ADA, the PWFA

permits employers to have discussions with employees and applicants about the limitations and the need for accommodation.

But what if an employer wants to require supporting documentation? In such cases, the EEOC proposes:

- Employers should consider providing interim accommodations as a best practice, noting that employees often need pregnancy-related accommodations early in pregnancy before visiting a doctor and may find they need accommodations in between scheduled doctor visits.
- Employers may only be permitted to seek “reasonable documentation,” defined as “documentation that describes or confirms (1) the physical or mental condition; (2) that it is related to, affected by, or arising out of pregnancy, childbirth, or related medical conditions; and (3) that a change or adjustment at work is needed for that reason.”
- Documentation requests that violate the proposed rule may amount to “retaliation and coercion” because they may deter workers from seeking accommodations under the PWFA.

For more on reasonable documentation, scroll to pages 78-82 in the proposed regs.

Quick hits: What else to put on your radar

Here’s a brief summary of additional items the EEOC proposes:

- Employers should consider providing interim accommodations as a best practice, noting that employees often need pregnancy-related accommodations early in pregnancy before visiting a doctor and may find they need accommodations in between scheduled doctor visits.
- Employers may only be permitted to seek “reasonable documentation,” defined as “documentation that describes or confirms (1) the physical or mental condition; (2) that it is related to, affected by, or arising out of pregnancy, childbirth, or related medical conditions; and (3) that a change or adjustment at work is needed for that reason.”
- Documentation requests that violate the proposed rule may amount to “retaliation and

coercion” because they may deter workers from seeking accommodations under the PWFA.

For more on reasonable documentation, scroll to pages 78-82 in the proposed regs.

Quick hits: What else to put on your radar

Here’s a brief summary of additional items the EEOC proposes:

- **No severity threshold** – Employees may seek accommodations for a “modest, minor and/ or episodic problem or impediment: there is no threshold of severity under the PWFA.” (See pages 14-15 for more.)
- **No “magic words”** – Employees don’t have to use any specific language when asking for accommodation. The proposed rule suggests providing training to help frontline managers recognize when an employee has communicated a need. (See pages 29-31 for more.)
- **No unnecessary delays** – Employers may not delay responding to a request for accommodation. Such a delay could amount to a failure to accommodate violation. Importantly, “this can be true even if the reasonable accommodation is eventually provided,” the EEOC said. (See page 86 for more.)
- **No healthcare providers of employers’ choosing** – The EEOC does not believe “it will be practical or necessary” for an employer to “request or require” employees to be examined by a healthcare provider of the employer’s choosing. (See page 83 for more.)
- **No forced leave** – Employers may not require employees to take paid or unpaid leave if another reasonable accommodation is available, absent undue hardship. (See page 92 for more.)
- **Abortion is covered** – As an FYI, the definition of “related medical conditions” includes “having or choosing not to have an abortion.” (See page 26.) Not surprisingly, that inclusion is already being criticized, Bloomberg Law reports. However, it’s important to note that the EEOC proposes to consider the application of the PWFA regs for religious employers on a case-by-case basis, and it seeks comments on several issues pertaining to religious employers. (See pages 108-114 for more.)

What happens next? Public comments on the proposed regs will be accepted through Oct. 11. After the comment period closes, the EEOC has until Dec. 29 to consider the submissions and issue final regulations. We’ll keep you posted.

[Read this article online](#) 

Why employers should check their employee handbooks right now

August 15, 2023

A new employee-friendly ruling from the NLRB means it is time for employers to reevaluate their employee handbooks in light of a new test for determining whether workplace rules violate employee rights.

Under the new test, a work rule that an employee could reasonably interpret to have a coercive meaning is presumptively unlawful. The presumption can be rebutted, but there is no question that the new standard heavily favors employees.

Background: What’s this all about?

Under Section 8(a)(1) of the National Labor Relations Act, employers cannot interfere with, restrain or coerce employees with respect to the exercise of their right to engage in what are known as “concerted activities.” Examples of such activities include talking with co-workers about wages and benefits or talking to the media about workplace problems.

The big question: When do workplace rules cross that line and violate the NLRA?

Before the NLRB’s ruling earlier this month, a more employer-friendly (translation: Trump era) standard was in place. Under that standard, the board evaluated the lawfulness of a facially neutral policy by looking at two things: the nature and extent of the potential impact on NLRA rights, and the legitimate justifications associated with the rule.

With the new ruling, the board has returned to a more employee-friendly standard that more quickly presumes workplace rules to be unlawful.

Employee handbooks and neutral rules

Put simply, if a facially neutral rule could reasonably be interpreted to be coercive, it is presumptively

unlawful. The rationale here is that a coercive rule has a chilling effect on the NLRA rights of employees.

Employers can rebut the presumption by showing two things: that the rule advances a legitimate and substantial business interest, and that they cannot advance that interest using a narrower rule.

In practice, if push comes to shove and the board finds a rule to be presumptively unlawful, this is likely to be a difficult test for employers to meet.

Employers must understand just how employee-friendly this standard is. Remember that it applies to facially neutral rules, and that a rule can be found to be presumptively unlawful “even if a contrary, noncoercive interpretation of the rule is also reasonable.”

Let that sink in for a second: Even if a workplace rule can reasonably be interpreted to be noncoercive, it can still be found to be presumptively unlawful under the new standard.

That means employers must take a magnifying glass to workplace rules expressed in employee handbooks to examine whether any of those rules may reasonably be interpreted as unduly coercive — and thus illegal — under the NLRA.

What to look for

Unfortunately for employers, the current board is likely to take an employee-friendly and expansive approach when examining whether a particular workplace rule is likely to unlawfully chill protected concerted activities.

Essentially, they must be confident that they will be able to meet the new decision’s rebuttal test in the event that a challenge to a particular rule is raised. Again, the question is whether the rule advances a legitimate and substantial business interest that cannot be advanced via a narrower rule.

There are many seemingly innocuous workplace rules that may run afoul of the new standard.

Take, for example, a rule requiring employees to fully cooperate in employer investigations. If the rule does not explain that it is inapplicable in cases involving protected concerted activity, then it may violate the new standard.

In short, as a best practice it is advisable to clearly state that no workplace rule is intended

to restrict the NLRA rights of employees – and that no rule should be interpreted as such. Of course, any rule that facially restricts NLRA rights should be stricken immediately.

The new ruling follows a February ruling that limited the ability of employers to include confidentiality and non-disparagement clauses in severance agreements.

[Read this article online](#) 



2024 SALARY BUDGET OUTLOOK: WHAT'S COMING?

COMPENSATION

2023-24 compensation outlook: Salary budgets, raises and more



by Alison Roller

As we enter the second half of 2023, it's time for many to begin planning salary budgets and other considerations for 2024.

Economic uncertainty and labor shortages that have plagued the last few years have left employers scrambling to stay competitive to keep top talent while boosting the company's financial health.

These issues leave many to wonder: How will budgets and compensation be impacted for 2024? Here are three early compensation trends for 2024 salary budgets to help you get a head start.

Raises & salary budgets

With economic turbulence plaguing the first half of 2023, it may come

as a surprise that more than three-fourths of U.S. companies plan to increase salaries the same as or more than this year, a recent salary budget survey by Payscale found.

Additionally, pay is expected to rise 3.8%, compared to 4% in 2023.

This echoes the findings of an earlier WTW survey, which found that organizations are budgeting an average increase of 4% in 2024. That's down from 2023, which saw an actual increase of 4.4%, but higher than increases in salary budgets from previous years.

As the labor market cools, however, Payscale's survey found that 22% of companies are planning to cut their salary increase budget next year, significantly higher than 9% of companies in 2023.

What's driving it

For those who said their 2024 salary increase budget is expected to be higher than 2023, respondents cited:

- Increased competition for labor or labor supply shortage (65%)
- Change in compensation philosophy or competitive positioning (34%), and
- Improved economic conditions or improved business performance (27%).

For those who expected their budget to be lower than 2023, they cited:

- Prior year increases that were higher than usual (77%), and
- Concern about future economic conditions or business performance (44%).

For those who expected their budget to be lower than 2023, they cited:

- Concerns over a tighter labor market impacted by worker shortages (61%)
- Inflationary pressures (60%)
- Shifting employee expectations (24%)
- Anticipated recession or weaker financial results (23%), and
- Cost management (20%).

Beyond compensation

WTW's survey also found that employers are utilizing non-monetary benefits to attract and retain top talent. More than half (59%) of respondents reported an increased emphasis on diversity, equity and inclusion, and 58% reported increasing workplace flexibility. Other actions employers are taking include:

- Changing health and wellness benefits

- Modifying rewards and compensation packages, and
- Increased training opportunities.

[Read this article online](#) 

The Cost of NonCompliance



\$300K

Court: Employer must pay \$287K for FLSA OT violations – plus \$13K in penalties

Who was involved: The owners and operators of two residential care facilities in Oahu, Hawaii, Hokulaki Senior Living LLC and Olalani Senior Care LLC, and 23 caregivers who were denied overtime pay.

What happened: A DOL Wage and Hour Division investigation found the employer “willfully” violated the Fair Labor Standards Act by paying straight-time rates for all hours worked, including hours over 40 in a workweek.

Result: A federal court in Hawaii approved the consent judgment and order, which required the owners of the facilities to pay:

- \$143,639 in overtime back wages and an equal amount in liquidated damages owed to the affected employees, and
- \$13,299 in civil money penalties for the willful nature of the violations.

Info: [Court Requires Assisted Living Facilities, Owners to Pay \\$287K in Back Wages, Damages, 7/27/23.](#)

[Read more of The Cost Of NonCompliance in your Membership Dashboard](#) 

Company culture at a crossroads: 5 ways to move in the right direction



by Michele McGovern



Is company culture at a crossroads?

Yes — the culture we cultivated before the pandemic isn't an exact fit for the way we work now.

Most companies can't go on as they have because employees aren't engaged. Just a third are involved, enthusiastic and forward-focused about their work and workplace, according to Gallup's most recent

State of the American Workplace report.

Almost 20% of employees are actively disengaged — they're resentful, unhappy and potentially toxic.

As for the rest, they're stuck in a near useless limbo: They're disengaged — unattached and disinterested, often blaming the company for not doing more to meet their professional needs.

The cost of culture at a crossroads

It adds up: Gallup estimates that low engagement costs the global economy \$8.8 trillion dollars.

So HR and other leaders need to shape a place where employees want to be — whether you have a hybrid, remote or on-site arrangements.

"What can leaders do today to potentially save the world? Gallup has found one clear answer — change the way your people are managed," says Gallup's CEO Jon Clifton. "Organizations have nowhere to hide. They have to adapt to the needs of the modern workforce, or they will find themselves struggling to attract and keep great employees and therefore customers."

That starts with culture.

Here are five ways to tweak or revolutionize culture in your organization.

Clear the water

To change culture, you'll want to determine what yours is — or, perhaps more importantly, *how it's perceived*.

"An organization is defined by its culture. Culture is the water employees swim in every day and if it becomes muddled, it makes it really hard for employees to perform their best and want to stay in that murky water," says Elizabeth Lintelman, Director of Career Services at Rasmussen University.

What's important is to separate what your company wants its culture to be — your brand, so to speak — and how employees perceive the culture. So survey employees, asking them if your company's vision and/or culture code is aligned with what they experience. Look for specifics, too: Prompt them to give examples of where culture does and doesn't align, and perhaps give suggestions on how to achieve alignment.

Increase rewards, recognition

People don't feel appreciated at work — and it's a culture killer.

Unfortunately, the rise of hybrid and remote work has contributed to this weakened sense of worthiness. Managers don't fully see the effort that goes into results, so they're less likely to recognize and reward employees along the way to reaching goals.

"Recognition is vastly underrated by organizations," says Lintelman. "Nothing is more frustrating than feeling like you're not seen and/or underappreciated. Organizations should incentivize workers by providing both tangible rewards and social recognition on a frequent basis."

Many organizations have adopted online recognition tools so managers and co-workers can give shout-outs for extra efforts and great work. But, people forget or fail to use these tools. So HR might want to bolster the recognition by regularly sending reminders, quick links and tips on how to genuinely recognize others. Even better, give them a small reward budget.

"Genuine appreciation and recognition builds connections between coworkers and enhances the employee experience and creates a culture that people want to be a part of," says Lintelman.

Help employees manage stress

About 45% of employees experience stress for the bulk of a work day, the Gallup poll found. Researchers didn't distinguish what the stress was related to — work, life, finances, family, etc. — but they found most employees are under some level of duress.

What's more, leaders don't realize how stressed employees are. A Deloitte study found the C-Suite underestimated the severity of

employees' struggles with every kind of well-being — mental, physical, financial and social.

And because the reasons for stress are varied, there isn't much you can do to alleviate it. But, you can create a better culture by giving employees tools and outlets to handle it.

"For decades businesses believed their employees' well-being was an individual responsibility and placed the onus on the individual to seek help rather than looking at the larger systemic issues in the workplace," says Laura Putnam, a workplace well-being expert, speaker and author of *Workplace Wellness That Works*. "Today, businesses need to understand that employee well-being is a collective responsibility and requires a holistic approach and support from the CEO down."

You likely offer well-being benefits and tools to access them. But do you offer help to actually use those? Give employees regular reminders on how to access, use and maximize your stress management-related benefits. Even better, ask employees who've had helpful experiences using your tools to manage stress to share their successes and perhaps guide others.

Foster friendships

Employees are attracted to and stay at places where they're cared for and cared about. Company cultures that foster friendships keep employees engaged.

Friendships are most often found and formed organically. But they thrive in an environment where friends want to be together, are focused on common goals and can help each other succeed.

"Establishing a culture of friendship within a team is critical," Putnam says. "Teams can implement rituals,

such as a moment of silence or expressions of gratitude at the start of meetings. These kinds of team care rituals can go a long way in building both friendships as well as psychological safety.”

If you start bigger initiatives — such as moments of gratitude — in larger group meetings, smaller teams will likely follow suit, helping build a culture of friendships.

monetary) to incentivize engagement and retention. Give employees the desire to want to return to the office, not a mandate,” says Lintelman.

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Don't overthink location

For most employees work location isn't the engagement be-all, end-all. Gallup found employees' involvement and enthusiasm matter more in their workplace experience than where they sit when they work. Employees generally care more about the other people, tasks, team dynamics and meaning at work than the work location.

“Leaders need to ask if poor remote work performance or poor hybrid work performance is a location problem or a management problem,” the Gallup researchers noted.

“No location can fix poor management, and the office alone has no magic to create a great organizational culture.”

So you'll want to regularly check the pulse of engagement. You might find that remaining flexible will create the most positive culture. Sometimes, employees will be engaged when they have hybrid and/or remote opportunities. And sometimes, working on-site next to friends and colleagues is the key to engagement.

“Employers need to turn their attention to their internal culture, employee development and standout benefits (not just

Case Study

How we enhanced benefits to support working parents through the pandemic and beyond



Since the COVID-19 pandemic, we've heard from employees across the country that parental and caregiving duties are more challenging than ever. That's why we decided to enhance benefits to cater to the unique needs of family planning and caregiving.

We know that many employees struggle to find a healthy work-life balance, and when you add caregiving and parental duties into the mix, it only gets harder. By listening to the needs of our workforce through surveys and listening strategies, we've expanded benefits and resources specifically for working parents.

The response has been overwhelmingly positive and paid dividends for our workforce.

Benefits that matter

We've implemented a host of benefits to help our people balance work and caregiving duties during the school year and during vacation time.

For example, we provide many benefits for childcare, such as discounted before- and after-school care, childcare center discounts, an extensive backup care program and backup care reimbursement.

Our benefits go beyond childcare to help support children's needs with free virtual tutoring, a college coaching program and expanded mental health benefits for dependents 13 to 17 years old.

We also provide company-wide benefits that can help working parents, including a biannual firmwide shutdown to promote rest and relaxation time with families and flexible work options like reduced schedules, compressed work weeks and job-sharing options.

Our Parenting Inclusion Network helps educate parents on benefit offerings and provides a community of like-minded, supportive colleagues who can share tips and advice for other working parents.

High utilization, high reward

By implementing these programs and benefits and maintaining a commitment to family support year-round, we've been able to cultivate a workplace that values and empowers working parents to balance professional and personal responsibilities in a way that makes sense for them.

And it really paid off, with thousands of employees utilizing

benefits like our backup care program to help them show up at work as their best selves without having to worry about stressors like childcare.

Through employee surveys and feedback, we've been able to prove that employees who are given the flexibility to connect with and prioritize their families and loved ones outside of work are happier and more satisfied with their company, in turn making them more engaged and productive.

We've heard from employees firsthand that they are less stressed about parenting and childcare, more connected to family thanks to our flexibility options and more connected to the workplace through our support networks.

We continue to prioritize flexibility and well-being to retain our people. As studies have shown, the pandemic placed a greater burden on working mothers, solo parents and caregivers and we've strived to support the varied and evolving needs of our professionals.

(Kim Jones, people experience leader, PwC, Dallas, TX)

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Let's talk AI: 7-point guide for a touchy conversation with employees



by Michele McGovern

Everyone wonders these days: Will AI take my job? That's why employers need to talk AI.

It's a real concern as AI and tools such as ChatGPT get smarter and capable of handling human work. The World Economic Forum Future of Jobs Report predicts 85 million jobs will be disrupted by AI in the next five years. At the same time, there's a good chance more than 95 million jobs will be created due to AI!

Even HR pros are a bit worried that technology can eliminate their jobs. So in most workplaces, HR, managers and employees need to understand and talk AI.

Talk AI, even if you don't have answers

Even if you don't have all the answers, employees want — and need — to talk about this technology explosion and how it will affect their jobs. These are conversations about how AI can impact their duties, change their roles or completely take over their jobs.

"The stakes are undeniably high when it comes to AI," says Milan Kordestani, author of *I'm Just Saying: A Guide to Maintaining Civil Discourse in an Increasingly Divided World*. "But by acknowledging fears, bridging gaps, educating, fostering collaboration, considering ethical implications and encouraging long-term thinking, individuals can

navigate the minefield of AI discussions with nuance and open-mindedness."

Here are seven tips to initiate AI conversations and create comfort around the topic.

Know what to expect

The good news for everyone: AI won't likely displace employees and functions in masses.

Harvard Business School researchers recently relied on data and outcomes from historical industry changes — such as the emergence of electric motors in factories and computing in offices — and determined we won't likely experience radical shifts in employment.

In both of those historical cases, the new technology was adopted slowly enough that employees who

were displaced by it temporarily were able to move into new roles created by the technology. Plus, new industries emerged to create new jobs and wealth.

Beyond this information for employees, make sure you have clear, concise and accurate explanations about AI. When you talk, avoid technical jargon and use simple language so everyone understands. Give examples and real-life applications to show how AI might be used or useful. Gather diverse voices and perspectives on the subject, too — ideally experts from various fields, policymakers, and people directly involved in or impacted by AI.

Set the stage for civility

And when it comes to AI, there's potential for some discourse. Some



employees don't trust it. Some can't get enough of it.

"Such deeply entrenched positions make it difficult to find common ground, and discussions often devolve into heated exchanges and stubborn resistance to opposing viewpoints," says Kordestani. "Moreover, the rapid pace of AI advancements and the complex nature of its implications exacerbate the challenges, leaving little time for informed discourse and reflection."

So when you talk AI, remind employees that it's a professional conversation. Ask them to think about their position, reflect on potential biases and how they might open up to other perspectives so conversations remain respectful.

Cover regs

If they exist, talk about current regulations and policies in place that ensure ethical and responsible use of AI in your workplace. Some of your existing intellectual rights, data-handling, confidentiality and/or social media guidelines might play into this.

For instance, you might cover how governments, industries and researchers work together to address concerns and develop frameworks for AI governance.

Recognize, acknowledge fears

"The fear-driven perspective believes that the very survival of humanity hangs in the balance, while the unregulated development camp emphasizes the limitless possibilities and potential for progress," says Kordestani.

Both sides have concerns. So when you talk AI, be ready to acknowledge

people's fears and concerns genuinely. Create a safe space where they feel comfortable expressing their thoughts and emotions.

Avoid dismissing or trivializing their concerns. Ideally, offer facts and research to rationalize.

Talk AI benefits, risks

Just like any HR-related conversation with employees, you want to address the benefits and risks you know of.

For instance, acknowledge the potential challenges, such as job displacement, ethical concerns and privacy issues.

On the other hand, emphasize the positive aspects of AI, such as improved healthcare, enhanced productivity and personalized experiences. Highlight how AI can augment human capabilities rather than replace them.

Focus on help, not replacement

Most companies aren't sure yet how they'll use AI tools, and many likely don't plan to replace a workforce with artificial intelligence and machine learning. And employees need to know that.

"The reality is that while AI is a great tool, it cannot replicate human intelligence and ingenuity, especially when it comes to generating new ideas or concepts," says Iterate.ai Co-Founder Brian Sathianathan. "AI programs like ChatGPT merely assist humans by reducing the number of tasks they face on a daily basis, it also enables humans to get started on projects faster by generating initial ideas that existed before."

To the point that you likely don't have all — or any — answers on AI,

you'll want to make sure employees understand that AI will more likely help them than replace them. What's more, now's when you might ask them for ideas on how they think the workplace can benefit from AI.

Encourage long-term thinking

When possible and appropriate, shift the conversation from immediate fears to long-term perspectives. Explore the potential for AI to amplify human abilities, solve complex problems, and enhance various aspects of daily life.

"Emphasize the need for open-mindedness and the exploration of shared values," says Kordestani. "Look for common ground, such as the desire to ensure ethical AI development or the pursuit of technologies that benefit society as a whole."

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TALENT MANAGEMENT

They're so lazy! 5 ways to help slackers on staff become better performers



by Michele McGovern



DO YOU HAVE
SLACKERS
ON STAFF?

Some employees aim low – and do just enough to hit their mark.

They're under-performers and they're the bane of most managers' existence.

Slackers on staff suck the energy out of their colleagues, too — often leading to resentment and team dysfunction.

How many slackers on staff?

By some estimates, 10% of employees are under-performers.

What's worse, managers spend almost 20% of their time – that's one day a week – handling slackers, a Robert Half study found.

Under-performing isn't just a time-sucking problem. Companies lose money: More than 25% of businesses pay bonuses to under-performers, a Towers Watson survey revealed.

Helping under-performers do better will save time and money. So how do you take an under-performer to the ranks of an adequate employee?

These ideas will help get your lowest performing employees to step up and contribute.

Be realistic

First, be realistic: Very few low-performers will become top-performers. They aren't wired to do much more than the minimum.

But that's OK. Every employer needs people who show up, do their jobs and make the day-to-day things happen.

Consider what your slackers are capable of and set the bar around there — slightly above what they're doing now and little below what you'd expect.

Seriously lay it on the line

Most under-performers have not stuck their heads in the sand. They're aware that they don't do as well as others.

But some managers don't lay it on the line because ... well, it's uncomfortable to discuss.

One of the most important things managers can do to help under-performers improve is be honest: Show them where they stand against the team, how it affects everyone and how they must improve.

You don't need to name names, but do show them where they stand in performance against others doing the same work. You might create a graph showing quality or quantity goals met. Or use a chart to show the percentage of work produced or goals achieved across department employees, pointing to the slacker's low rank.

Reduce tolerance

Employees who struggle to perform well often turn into deliberate slackers because they and those around them start to tolerate the shortcomings – maybe chalking it up to, “that’s just the way he is.”

But managers don't want to leave any wiggle room when working with under-performers.

Small setbacks or just coming shy of a goal or expectation may not seem like a big deal on the surface. But if those are tolerated, low-performers will continue to fall on their bad habits.

If you must, create consequences that mean something to slackers for missing goals. That might include losing the flexible work privileges or the ability to choose schedules.

Encourage realistically

All employees need a boss who motivates and inspires them. While it usually takes a special effort to inspire under-performers, they still crave it.

Managers want to keep conversations positive, focusing on what low-performers can do, and how they can translate those skills and wins into other areas of their workload. For instance, if a low performer misses deadlines, but seldom has errors, help her identify ways to channel that attention to detail into sensible time-management techniques.

Communicate fairly

When employees fail to meet expectations, managers sometimes cast them as people who can't contribute. Then they unintentionally share less information and solicit fewer opinions.

To build better relationships with and improve the performance of slackers on staff:

- share information equally
- invite their opinions, and
- wait for, listen to and act on feedback.

Schedule regular time to do those three things with low-performers. It helps build their confidence, which they often lack, and gives you time to uncover and understand what's holding them back.

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Tom D'Agostino

Tom D'Agostino is an attorney and legal editor who has more than 30 years of experience writing about employment law, disability law and education law trends. He earned his B.A. degree from Ramapo College of New Jersey and his J.D. from the Duquesne University School of Law. D'Agostino, who is a member of the Pennsylvania bar, is a past member of the American Bar Association's Section of Individual Rights and Responsibilities and the Pennsylvania Bar Association's Legal Services to Persons with Disabilities Committee. He has provided technical assistance in the production of segments for television's ABC World News and 20/20, and he has been quoted in periodicals including USA Today. He is also a past contributing author of *Legal Rights of Persons with Disabilities: An Analysis of Federal Law*, which is a comprehensive two-volume treatise addressing the legal rights of people with disabilities. Tom is passionate about baseball and authentic Italian food. When not writing, he enjoys spending time with family.



Michele McGovern

Michele McGovern writes. A lot. These days, she covers HR, digging deep into company culture, DEI, leadership, management and the everchanging world of work. In the years between getting a BA in journalism from a state school and writing about HR, she wrote about big-city crime for a wire service and small-town life for local newspapers. She's a mediocre mom, decent wife, wannabe athlete and consummate pursuer of fun - on land, snow and water. Follow her on Twitter @sheknowswork. Find her on LinkedIn @michele-mcgovern-writer



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Carol Warner has been a writer and editor since 2008, covering the latest trends in employment law, education law, safety and security, human resources, employee training, and emergency response plans. She attended East Carolina University and earned a Bachelor's degree from New York Institute of Technology. When she's not writing, she spends most of her free time listening to audiobooks, playing Scrabble, and solving crossword puzzles.



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Brian Bingaman has been a journalist in the Philadelphia area for nearly 20 years. He was a contributing editor for *ResourcefulFinancePro.com*, as well as the publications *What's Working in Human Resources* and *What's New in Benefits and Compensation*. He first became interested in HR when he started noticing a distinct lack of human interaction from the HR department of the newspaper group where he worked. In addition, Brian has 15 years of experience in the radio broadcasting industry.



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