HOT SHEET

Full-Circle HR

HR Trends:

- A bonus to frontline workers, even during the pandemic, may be considered non-discretionary and therefore should likely be included in overtime calculations.
- Workers who turn down work due to legitimate workplace COVID safety concerns may be eligible for unemployment benefits– possibly even retroactively.
- A study by SHRM shows that 27% of employers intend to bring all workers back to the office when it's safe to do so; 34% are unsure when they will bring them back; 18% say they do not plan to bring them back; and 5% have already set a return date.
- On March 9, the U.S. House of Representatives passed the PRO act which, if enacted, would be the most expansive labor relations act since the National Labor Relations Act of 1935.
- The line between employee and independent contractor is again being evaluated as the Biden Administration placed a 60-day delay on a ruling made under the Trump Administration which loosened restrictions; this could result in a 3-pronged test like California has to make a determination of status.

Trust in the Workplace

As I participated in another monthly Zoom call, I could feel the lack of enthusiasm for the process. It could have just been me, but I felt that our sense of connection and engagement was flagging. This is a group that is deeply connected through the work we do. Generalizing this experience to a larger context, I can feel that the very fiber of organizations and human connectivity has been inordinately strained over this last year. The culture that makes our companies who they are has had to adapt and shift to this new way of doing business. Looking through this lens, I think about companies who are experiencing a growing lack of trust during this time of remote work. In a article from SHRM, for which dozens of companies were studied, they reported that

the initial feeling of, "we've got this remote process handled," has faded and fellow employees and managers are beginning to mistrust the productivity of remote workers. Doubts have been expressed, in spite of evidence to the contrary, that remote workers are not pulling their weight. In some cases, organizations have implemented electronic monitoring. Mark Mortensen, a professor of organizational behavior, offers that trust is predicated on predictability. Being vulnerable with someone requires having enough contact, information about and connection with someone to believe that they will not take advantage of you or let you down. Remote work has made it difficult to maintain or build trust. We don't see each other's behavior for hours on end as

we work alone in our homes. Opportunities for miscommunications and misunderstandings abound in the virtual world. Mortensen further offers that there are two basic ways that people come to trust. One way is to offer trust immediately, giving the benefit of the doubt, but it is easier to break that trust and once broken it is harder to regain. The second way is to expect others to earn trust and, once earned, it is not as easily broken. So, if you want to build trust with someone, don't assume they come to trust the same way you do– learn what works for them. With the former you want to understand what might break their trust and show that you will not do that. With the latter, you want to know what will build

their trust and incrementally and consistently demonstrate that you can be counted on. Using virtual monitoring sets an expectation of mistrust and has the opposite effect of what you are trying to establish. What does work is, rather than focusing on the other's trustworthiness, establish yours, which will take advantage of the bi-directionality and mutuality of trust. You can do this in large ways if they appear, but usually it is in the small things we do. Also, Mortensen suggests status quo communications—instead of always focusing on what has changed, remind people of the things that have not changed so that they have as sense of ground. With trust comes willingness to be vulnerable and that very important sense of connection.

Workers Who are Afraid to Come Back to Work

As employers begin to reopen and welcome employees back into the workplace, it can be challenging to know where to draw the line if an employee is afraid to come back to work. You may wonder what action you can take to more fully understand the fear your employee is experiencing and how you can deal with it. If an employee expresses concern, your time will be well spent in working to understand what is behind that fear. Threats of disciplinary action are fruitless—even if the worker comes back, productivity and morale are likely to suffer. Before taking that approach, ask

whether the employee has underlying conditions, or lives with someone who has such conditions, that make him/her more vulnerable to COVID. Employees with conditions such as cancer, heart conditions, COPD, kidney disease, type-2 diabetes, sickle cell, immunocompromised state, Down syndrome, obesity, pregnancy and smokers are more vulnerable and they could be protected under the ADA. While the ADA does not offer these employees protections due to residing with someone with these vulnerabilities, employers are trying to take these into consideration as well. In this instance, the best approach is to en-

gage in the interactive process with your employee to consider reasonable accommodation. This can be remote work, finding a way to safely isolate the employee at work through scheduling or physical separation, a leave of absence, etc. The employer cannot require an employee to accept an accommodation, but if they refuse, they are likely not protected from termination. Impetus for engaging this process thoroughly can be the expense and difficulty of replacing the employee and the damage to morale.

Another concern is whether the employee feels there are safety concerns in the

Learn to be quiet enough to hear the genuine in yourself, so that you can hear it in others. —Marian Wright Edelman

workplace that make him/her more likely to contract COVID. Discuss any concerns the employee may have and ensure that your safety protocols are aligned with the recommended guidelines. Ensure that the employee understands these protocols and also ascertain that they are indeed being followed. Engage in training on the protocols as needed. OSHA has published guidelines that can be found at [Guidance on Preparing Workplaces for COVID-19 (osha.gov)](#) .