



Monthly Strategies

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Paying Appropriately

When was the last time you evaluated your compensation practices for the company's most critical positions? Are you paying what the market is dictating? Are you losing potential talent because your pay ranges are too low? Are you not retaining employees because the competition is paying higher wages?

Lost talent, whether it is candidates that are turning down your employment offer or employees that leave the organization for a few more dollars, will have a huge impact on your bottom line. It will cost you money in recruiting costs, training costs, additional overtime, lower productivity, rework because of mistakes, and last but not least employee engagement.

Before you are negatively impacted, have a market survey done for your most important positions. The information can be used for the following:

- ensure you are paying appropriately and not losing potential talent;
- retaining your current talent and showing them where their compensation is compared to the market;
- determine if you need to make salary adjustments;
- see how your benefits compare to the competition; and
- develop your compensation strategy. Do you want to lead the market or lag the market?

Receive Free Compensation Surveys

How your company pays its employees can say a lot about what your company values. Does your company know how its compensation compares to the market? Are you aware of how your employees feel about their compensation and the culture of rewards at your company? After all, your employees can talk to peers, take online salary surveys, or browse employer review sites to

understand their value in the market and decide whether you are paying them what they are worth.

Developing a compensation plan and remaining consistent lets you send a message that your company has done what it takes to understand the job market and each employee's place in it.

In these difficult times of retention and especially recruitment, make sure you're paying correctly for all positions, especially those that are key to your business.

HR Strategies is offering this special through May 31, 2022

- Pay for 4 compensation surveys and receive a fifth survey for free;
- Pay for 10 compensation surveys and receive three more for free (13 total);
- Pay for 15 compensation surveys and receive five more for free (20 total).

What is included in a compensation survey:

- Compensation Summary
 - Total cash
 - Basic salary
 - Bonus
 - Profit Sharing
- Market Trends
- Benefit Summary
- Compensation Influencers
 - Salary by company size
 - Salary by stock exchange
 - Salary by organization's products / business
 - Salary by employer type
 - Salary by budget under management
 - Salary by amount authorized for signing amount
 - Salary by experience
 - Salary by skill
 - Salary by number supervised
 - Salary by people types managed
 - Salary by management role
 - Salary by signing authority
 - Salary by security clearance

- Average base pay by people management tasks
 - Salary by certification
 - Salary by degree
 - Salary by metropolitan area
 - Salary by state
 - Last but not least an employer list
- Make sure you are paying competitively for your key positions and request your compensation surveys no later than May 31, 2022.

OSHA: Some Travel Injuries Must Be Recorded

By Allen Smith

Injuries that occur during normal commutes have long been held to not be recordable on Occupational Safety and Health Administration (OSHA) logs, but some travel injuries are recordable, according to an OSHA letter of interpretation.

Exceptions to the Rule

The letter identifies employee travel situations that are exceptions to the long-standing OSHA interpretation that injuries during an employee's normal commute to and from home and the workplace are not work-related, said Peter Spanos, an attorney with Taylor English in Atlanta.

"Normal commuting under the employee's control is not a work environment for purposes of OSHA," he said. OSHA's letter "points out that some employee travel is either done in the interest of the employer or as a condition of employment. Such travel is not considered commuting and is considered a work environment for OSHA purposes."

Any injuries resulting from an accident during an additional, nonroutine return to the workplace and back home again afterward would be work-related and recordable, said Phillip Russell, an attorney with Ogletree Deakins in Tampa, Fla. "What makes this interpretation problematic is that it expands the scope of what the standards consider to be work-related," he said. "Commuting is not work-related, even if the employee has to go back to work for some reason that is not part of the routine commute."

Spanos said other examples of travel in the interest of the employer or as a condition of employment

that are thus recordable, according to the letter, include travel:

- From the workplace or the home to another location during the workday to perform assigned work.
- During which the employee is also performing work, such as telephone conferencing while driving or being a passenger.
- During which the employee is entertaining or transporting customers or other employees.

Based on the letter, injuries that occur during travel to the workplace that is mandatory, unscheduled or not the first commute of the day—other than the commute home—are likely recordable, according to Micah Dickie, an attorney with Fisher Philips in Atlanta. That would include when employees are called back to the worksite to assist in an emergency and when employees are called into work when not previously scheduled, such as in the in the event of a staffing shortage.

The letter does not discuss out-of-town travel required by the employer. Nonetheless, "based on the reasoning of the letter, such travel may be a work environment if the travel is required by the employer," Spanos said.

An injury occurring when an employee is traveling to a restaurant at lunchtime or after work hours is not recordable unless entertainment of customers or other employees is involved, he added.

Employees often are required to travel between jobsites or while making sales calls. If an employee is traveling as part of work, automobile accident injuries should be recorded, said Dan Kaplan, an attorney with Foley & Lardner in Madison, Wis.

One example is a construction supervisor who is overseeing multiple worksites. The supervisor's travel between such sites is typically compensable work time, and any injury during such travel would need to be recorded on the employer's OSHA 300 log, he said.

Another example is a door-to-door salesman or delivery driver of an employer's product. Whenever that employee is involved in compensable work

activities, such as driving to a customer's site, any injuries during such travel are recordable, Kaplan noted.

If travel is a voluntary return to the worksite, even on the same day as another shift, an injury during that travel would not be recordable, Dickie said.

Recordability of an Injury

"Recordability of any injury on your 300 log is a serious matter," Dickie said.

While the OSHA 300 log doesn't currently have to be filed with OSHA, employers that have establishments with 250 or more employees and certain other smaller employers must electronically submit the 300A summary to OSHA in early March each year, he noted. The Biden administration is close to proposing that large employers file the OSHA 300 log and Form 301 each year, according to Bloomberg.

The OSHA 300A is the annual summary of all recordable work-related injuries and illnesses that occurred at an establishment, including the total number of cases, the total number of days employees spent away from work or on restriction, and specific injury and illness types from the OSHA 300 log. The OSHA 300A annual summary must be posted at each establishment in a conspicuous place from Feb. 1 to April 30.

"OSHA implements its site-specific targeting plan (SST) inspection programs using employer-submitted Form 300A data, which comes directly from the employer's 300 logs," Dickie said.

"Historically, SST has been OSHA's main site-specific targeting inspection plan for non-construction workplaces with 20 or more employees."

If an employer on the SST list doesn't have any injuries reported to OSHA, the agency may conduct a planned inspection of the establishment.

"Employers should be vigilant in ensuring that their OSHA logs do not needlessly record nonwork-related or nonrecordable injuries because failing to do so needlessly increases an employer's days away, restricted or transferred—DART—rate. That can eventually lead to an increase in OSHA inspections," Dickie said. "OSHA is always entitled to access to an employer's last five OSHA 300 logs.

Using that data to potentially expand the scope of an ongoing inspection, and a higher rate of recordable injuries, can increase workers' compensation insurance premiums."

OSHA will normally compare DART rates only for employers within the same industry or business to help it identify whether there may be a systemic problem with an employer's safety and health program, Kaplan noted. "When a DART rate is far in excess of the industry average, that can be indicative of a problem requiring attention," he explained.

However, he said, "Including injuries on an OSHA 300 log does not normally have any OSHA-related consequences, so long as the recording process is done appropriately and correctly."

Time to Update Your AAP's

Many Affirmative Action Plans (AAPs) expired on December 31, 2021. Under federal law, government contractors and subcontractors with 50 or more employees who have entered into at least one contract of \$50,000 or more with the federal government must prepare and maintain a written affirmative action program, which must be developed within 120 days from the commencement of the contract and **must be updated annually**.

AAPs should have been submitted to DOL by March 31, 2022.

Mandated Training Available

HR Strategies, LLC can provide your organization with the mandated training required in Delaware.

Contact our staff for scheduling and pricing:

- Delaware Harassment Prevention for Employees
- Delaware Harassment Prevention for Managers
- Drug and Alcohol Awareness
- Supervisor Reasonable Suspicion Testing Training

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