Centricity Solutions Quarter 3 2022 Newsletter

5 Ways Leaders Can Support Hispanic Talent in the Workplace

Does your organization support Hispanic talent? A quick glance at the record pay gaps and lacking Hispanic representation among U.S. business leaders points to a likely "no" — at least in corporate America. Latino CEOs account for only 20 of the Fortune 500 companies and make up as little as 4% of board seats. Latinas endure the worst gender pay gap among women of color, earning 57% of what non-Hispanic white men were paid in 2020, according to the American Association of University Women. As more business leaders conclude that they cannot take a one-size-fits-all approach to DEI, workplace equity may seem like an elusive, if not impossible, goal. And the Hispanic community, which spans 20 countries and over 62 million people in the U.S. alone, has proved to be a widely misunderstood demographic in the professional world, says Yrthya Dinzey-Flores, vice president of DEI, social impact and sustainability at Justworks, a workforce management platform.

"We are different as a population because we cut across race, ethnicity and religion — you cannot group us into one space," Dinzey-Flores says. "But Latino employees just need the same things that other employees need." Dinzey-Flores, who is Puerto Rican and worked in the DEI space for over a decade, knows firsthand how difficult it is for employers to grasp the needs of the Hispanic population when their race and cultures vary. With a specific eye to Hispanic talent from Latin America, Dinzey-Flores and Victoria Park, director of communications at Black-owned media marketing company Hero Collective, ask employers to return to the fundamentals of leadership and engagement — but this time with a new focus.

Here are five tips on how to support Hispanic talent in the workplace.

Recruit with equity already in mind. "You have to cast a wider net, because oftentimes we only look between people, we know rather than who would be strong candidates," says Dinzey-Flores. "Extend your network beyond yourself." She also suggests that companies conduct interviews with diverse panels of company leaders to minimize the chances of a candidate being judged on their background alone. Dinzey-Flores underlines the importance of breaking down the barriers to entrance, without doing so, there cannot be any diversity to support in the first place.

Listen when someone speaks up. While easier said than done, Park warns leaders against taking the easy route. Puerto Rican herself, Park often finds herself in rooms where she is the only Latina among her co-workers. When Park has to speak up and share her perspective on an issue or proposal, and she isn't heard, it's a tell-tale sign that she isn't in a supportive workplace.

Utilize ERGS. Employee resource groups can be an effective way to combat the isolation Hispanic talent may feel in the workplace. With a community, however small, Hispanic talent could be more willing to speak up — for themselves and the company, explains Dinzey-Flores.

Don't underestimate mental health. While mental health is a universal challenge in the professional world, it's worth noting that getting help is often stigmatized in Hispanic communities, says Park. This thinking can make it hard to accept help, even via employer-provided benefits. Park suggests that employers focus on cultivating a flexible and safe environment, where employees have agency in how they show up to work. The workplace may as well not be an added stressor.

Engage with your team. While this tip seems simple, Dinzey-Flores notes that leaders often forget that engaging with workers isn't just about giving directions and criticisms. Leaders must make it clear they value everyone on their team during check-ins and even while giving feedback. Hispanic talent may often go unnoticed or underappreciated because leaders have not made an effort to connect with who they lead**.**

UPCOMING ALERTS

California Paid Family Leave Rates Remain for 2023

Effective January 1, 2023, the wage replacement rates for California's Paid Family Leave (PFL) program will extend, rather than sunset, and then increase in 2025.

New York City Vaccine Mandate to be Rescinded

New York City Mayor Eric Adams officially announced that New York City will rescind its private employer vaccine mandate, effective November 1, 2022, thereby allowing companies to remove vaccination requirements for NYC workers. New York City was the only jurisdiction left in the country that required that all private employers confirm the vaccination status of their workers.

California Extends Supplemental Paid Sick Leave (SPSL)

California has amended its Supplemental Paid Sick Leave (SPSL) law to run through December 31, 2022, and to allow employers to require additional COVID testing in certain circumstances. The state is also establishing a grant program to reimburse qualifying small businesses and nonprofits for SPSL costs. As a refresher, SPSL provides job-protected leave to employees for certain reasons related to COVID-19 and applies to employers with 26 or more employees. Here are the highlights of the newest changes.

SPSL Extension
SPSL is now extended through December 31, 2022 (it was previously set to expire on September 30, 2022). The extension doesn't provide employees with additional hours of SPSL—employees who have already exhausted their SPSL bank (or banks) are not entitled to more. Employees are still subject to a cap of 80 total hours of SPSL in 2022. However, an employee who is taking SPSL on December 31, 2022, is allowed to continue the remainder of their covered absence uninterrupted, so a few leaves may extend into 2023.

Testing Requirements
Employers can now require employees to take a third COVID test as a condition of continuing to receive SPSL. As background, employees are entitled to up to 40 hours of Standard SPSL for various COVID-related reasons, but they can also access an additional bank of up to 40 hours of Positive Test SPSL if they or a family member test positive for COVID. If the employee tests positive and is asking to use Positive Test SPSL, employers could already require that they submit to a second COVID test at least five days later as a condition of continuing to receive SPSL. Now, if the second test result is also positive, employers can require a third COVID test 24 hours or more after the second test. Employers can deny the employee's request for additional SPSL if they refuse to take the test or provide documentation of the results.

Grants for Qualified Small Businesses and Nonprofits
Small businesses and nonprofits that have between 26 and 49 full-time employees can apply for a grant of up to $50,000 to reimburse SPSL costs for leave provided in 2022. Employers must meet certain eligibility criteria to qualify for the funds. For additional information, contact the California Office of the Small Business Advocate.

Action Item
If this policy applies to your business your Centricity HR partner will be reaching out to update your SPSL policy to reflect that it applies through December 31, 2022, and to indicate that you may now require employees to take an additional COVID test if their previous required test result is positive.

Mineral (2022, October) California: Employee Toilets Must be Accessible to Non-Employees with a Medical Condition. Retrieved from https://apps.trustmineral.com/hr-compliance/law-alerts/7tO8ZUqQLIiSMM8N1wBj3L/details.
Mineral (2022, October) California Extends Supplemental Paid Sick Leave. Retrieved from https://apps.trustmineral.com/hr-compliance/law-alerts/4uealrGkmllYyormUpkvFg/details.

New York PFL Rate Reduction Announced for 2023

The Department of Financial Services announced the 2023 NY Paid Family Leave (PFL) rate, giving New Yorkers a rate reduction for 2023:

In 2023, the maximum contribution rate for Paid Family Leave will go down from 0.511% to 0.455% of an employee's gross annualized wages capped at $87,785.88*, which is the updated annualized New York State Average Weekly Wage. This translates to a maximum annual premium contribution of $399.43 per employee – down from $423.71 this year.

Summary for 2023 PFL rate and 2023 benefit increase:

2023 Contribution Rate: The NY DFS has announced the PFL rate of 0.455 with an annual maximum employee contribution to $399.43 per employee. The 2023 annual employee wage cap will be $87,785.88.

2023 PFL Benefit: 67% of the employee's average weekly wage up to the weekly benefit maximum of $1,131.08 for up to 12 weeks of leave.

*The Statewide Average Weekly Wage increases to $1,688.19

Employee Toilets Must be Accessible to Non-Employees with a Medical Condition in California

Effective January 1, 2023, businesses that are open to the public, that sell goods, and that have an employee toilet must let anyone who is lawfully on the premises use the toilet during normal business hours, even if it's an employee-only toilet, if:

- They have an eligible ***medical condition***, defined as Crohn's disease, ulcerative colitis, other inflammatory bowel disease, irritable bowel syndrome, or another medical condition that requires immediate access to a toilet facility, or use an ostomy device.
- Three or more employees are at the workplace when the individual needs to use the toilet.
- The employee toilet isn't in an employee changing area or place where granting access to it would create an obvious health or safety risk to the person asking to use it or an obvious security risk to the business.
- Use of the employee toilet wouldn't create an obvious health or safety risk to the person asking to use it.
- A public restroom is not immediately accessible.

The business can request the individual to provide reasonable evidence of their condition. The California Department of Health is creating a form they can show as such evidence, issued to them, and signed by a physician, nurse practitioner, or physician assistant.

Employees can't be discharged or disciplined for violating this law unless they acted contrary to an express employer policy and the law doesn't require any physical changes to an employee toilet by a business.

Preparing for Colorado's Paid Family and Medical Leave Insurance Program

In 2020, Colorado enacted a statewide paid family and medical leave insurance program, following roughly a dozen states that have adopted similar programs in recent years. Since that time, the state has been building a new state-run Paid Family and Medical Leave Insurance (FAMLI) program pursuant to this law, and recently published a series of guidance documents and regulations regarding FAMLI.

To briefly recap, starting Jan. 1, 2024, employees covered by the FAMLI program will be entitled to take paid leave for any of the following reasons:

- To care for their own serious health condition.
- To care for a family member's serious health condition.
- To care for a new child, including adopted and fostered children, during the first year after birth, adoption, or placement of the child.
- To make arrangements for a family member's military deployment.
- To take "safe leave," meaning leave because the employee or employee's family member is the victim of domestic violence, stalking, or sexual assault or abuse.

Employees can take 12 weeks of paid leave, unless leave is needed due to a pregnancy- or childbirth-related complication, in which case, an employee can receive an additional 4 weeks of FAMLI leave, giving the employee a total of 16 weeks. The FAMLI benefits will not be full wage replacement, and eligible employees will instead receive partial wage replacement depending on their earnings, capped at $1,100 per week. Any employer with ***at least one employee*** in Colorado must provide paid family and medical leave to its eligible Colorado employees. The program is structured similarly to unemployment insurance, in that the state will pay employees directly when they are on FAMLI leave. Employers are not responsible for paying an employee's salary or wages while they are on FAMLI leave.

Premiums

As of Jan. 1, 2023, employers will need to begin deducting premiums, in the form of a 0.9 percent payroll tax, for all Colorado employees to fund the FAMLI program. FAMLI will be funded by payroll taxes split 50/50 between the employer and the employee (meaning the employer and employee will each pay 0.45 percent of their payroll to fund the program). Employers may also elect to pay the full amount if they choose to offer this as an added perk for their employees. Notably, employers with fewer than 10 employees are not required to pay the employer share of the premiums. Employers with at least 10 employees in the first quarter of 2023 will need to pay the employer share of the premiums for all calendar quarters in 2023, even if they employ fewer than 10 employees in subsequent quarters of 2023.

What Should Employers Be Doing Now

In the coming months, covered employers should:

- Post this poster in a prominent location in the workplace and notify employees of FAMLI benefits upon hiring.
- Register with the FAMLI Division (registration will open in Q3 of 2022).
- Determine estimated premium liability to budget for the impact of this new program on the business.
- Decide whether to adopt a private plan rather than participate in the state's program.
- Notify CO employees that FAMLI payroll deductions will begin Jan. 1, 2023 but emphasize that benefits will not be available until 2024.
- Work with your Centricity HR Partner to update your policies and/or Employee Handbook.

Cannabis Testing Protocols to Change in 2024

On September 19, 2022, Governor Gavin Newsom signed into law several marijuana-related bills, including legislation protecting employees from workplace discrimination. Specifically, Assembly Bill 2188 (the "Law"), addresses workplace discrimination on the basis of legal cannabis use. ***The Law takes effect on January 1, 2024***.

The Law will prohibit an employer from discriminating against a person in hiring, termination, or any term or condition of employment, if the discrimination is based on:

- The person's use of cannabis off the job and away from the workplace. *This does not prohibit an employer from discriminating in hiring, or any term or condition of employment, or otherwise penalize a person based on scientifically valid preemployment drug screening conducted through methods that do not screen for nonpsychoactive cannabis metabolites.*
- An employer-required drug screening test that has found the person to have nonpsychoactive cannabis metabolites in their hair, blood, urine, or other bodily fluids.

What this means is that beginning in 2024 it will become unlawful for an employer to discriminate based upon a person's use of cannabis off the job and away from the workplace in California. However, unlike other states with similar laws, employers may still rely on cannabis testing in employment decisions provided that the testing detects the active presence of THC in the employee's or prospective employee's system instead of cannabis metabolite remnants.

The current most common laboratory industry testing for marijuana uses urine for the detection of tetrahydrocannabinol (THC). These tests delineate that psychoactive marijuana has been used but does not delineate the current presence of psychoactive marijuana compounds. Per the language above, this Law will require testing for currently psychoactive ingredients from marijuana for a decisional employment impact to be taken. Samples other than urine, such as saliva, do currently test for the presence of THC itself and it is probable that testing in California will shift to accommodate this Law.

First Advantage (2022, October) California Cannabis Testing Impacts. Retrieved from https://fadv.com/news/california-cannabis-testing-impacts-september-2022/
Gartenberg, D. (2022, May) Colorado Issues Regulations on Its Paid Family and Medical Leave Insurance Program. Retrieved from https://www.shrm.org/resourcesandtools/legal-and-compliance/state-and-local-updates/pages/colorado-regulations-paid-family-and-medical-leave.aspx

New Legislation in California Impacts PFL and SDI Benefits and Introduces Grant Program for Small Businesses

California Governor Gavin Newsom signed Senate Bill 951, which increases wage replacement rates for low-wage earners under the state Paid Family Leave program (PFL) and the State Disability Insurance (SDI) program. Starting in 2025, workers who earn 70 percent or less of the state's average wage will be eligible for 90 percent of their regular wages under the PFL and SDI programs. Currently, low-wage earners may be eligible for 70 percent of their regular wages under these programs. Though PFL and SDI are state benefits, employees can apply for the benefits while on unpaid leaves, such as under the California Family Rights Act (CFRA) and the federal Family Medical Leave Act (FMLA). As such, this increase in the state benefits formula may make unpaid leaves for low-wage earners more palatable, as it will mean a less significant loss of income.

Earlier this year, California also started a grant program to assist small businesses with the costs associated with employees on leave under the Paid Family Leave program, such as expenses incurred in training existing staff or hiring temporary employees during employee leaves. California Paid Family Leave (PFL) Grant Program awards grants to assist California's small businesses impacted by the Paid Family Leave (PFL) Program.

Businesses impacted by California's Paid Family Leave program will have:

- Increased costs such as training and upskilling existing staff to cover the duties of the employee on California's Paid Family Leave;
- Hiring and training additional staff to cover the duties of the employee on California's Paid Family Leave; and marketing, recruitment, and other reasonably foreseeable training costs

The PFL Grant Program allows eligible small businesses in California with 1-100 employees with at least one (1) employee utilizing California's Paid Family Leave program to apply for grants up to $2,000 per employee to offset the increased costs associated with the employee out on leave.

Eligibility:

- Small businesses in California with 1-100 employees who have at least one (1) employee utilizing California's Paid Family Leave program (on or after June 1, 2022)
- Businesses must be registered to do business in the State of California
- Be in active status with the California Secretary of State's Office;
- Have an active California Employer Account Number (CEAN) under which their employees are listed for payroll

Paid Family Leave Grant Amounts:

- Businesses with 51-100 employees may receive up to $1,000 per employee utilizing Paid Family Leave.
- Businesses with 1-50 employees may receive up to $2,000 per employee utilizing Paid Family Leave.

Connect with your Centricity HR Partner for additional information on the application process.

Pay Transparency Requirements Expanded in California

California companies with more than 15 employees will be required to list salary ranges for jobs and make that information available to existing employees thanks to a new law signed last week by Governor Gavin Newsom. The law represents a major win in the growing push for pay transparency, which experts say is a critical lever for countering the wage gap. In California, women lose $87 billion to the pay gap each year, according to Newsom's office.

Companies in California were already required to provide pay scale information for job candidates upon request, but after the new law takes effect on Jan. 1, 2023, companies with 15 or more employees will have to do so for all postings, both internal and external. The law applies to roughly 200,000 companies, which employ about 19 million workers, the vast majority of California's labor force. Companies with 100 or more employees will also be required to report detailed pay information to California's Department of Fair Employment and Housing annually. Updated pay data reports will be due starting May 10, 2023. Companies could face fines of $100 per employee for failing to comply.

Why Does it Matter?

Pay transparency is seen as critical to reducing gender and racial pay gaps. Women in the United States earned 17 percent less than men in 2021, according to the most recent available data from the organization for Economic Cooperation and Development.

For women of color, the gap is often greater: Black women earned roughly 88 percent of the median wages of White women in the second quarter of 2022, according to data from the Bureau of Labor Statistics, while median earnings of Hispanic women were about 79 percent of White women. Black men earn 82 percent of the median earnings of White men in the second quarter of 2022, according to the Bureau of Labor Statistics, while the median earnings for Hispanic men were 75.5 percent of the median for White men. Earnings of Asian men and women were higher than their White counterparts.

How Should Employers Respond

Employers should view this as "an opportunity to identify and correct potential disparities that they had not previously focused on," according to Jennifer Cormier, a partner at Ropes & Gray, a firm with expertise in employment law.

The new law may create challenges for companies that have not been actively considering pay equity issues, so employers should work with legal counsel to ensure that they are complying, Cormier said. Employers can also conduct their own pay equity audits with an outside consultant.

Companies could also benefit from understanding their rivals' compensation packages for similar positions if they want to be competitive in the labor market.

Page 1: Cuadra, D. (2022, September) 5 ways leaders can support Hispanic talent in the workplace. Retrieved from https://www.benefitnews.com/list/5-ways-leaders-can-support-hispanic-talent-in-the-workplace
Groff, S. (2022, October) California Revises Formula for Paid Family Leave and State Disability Insurance Benefits. Retrieved from https://www.shrm.org/resourcesandtools/legal-and-compliance/state-and-local-updates/pages/california-wage-replacement-low-wage-worker.aspx
Telford, T. (2022, October) California law forces most companies to provide salary info in job ads Retrieved from https://www.washingtonpost.com/business/2022/10/03/faq-california-pay-transparency-law/