

What a roller coaster ride 2020 was. All of us were challenged in some way by the COVID-19 pandemic. Lots of businesses didn't survive, others continue to struggle, and still others are growing and thriving. As we move into 2021, here are some things employers need to know to succeed in this constantly changing environment.

Unemployment

Approximately 10.7 million Americans are currently unemployed, almost double the 5.7 million reported in February 2020.

The US unemployment rate as of December 2020 was 6.7%, unchanged from November but down from a high of 14.7% in April. By comparison, the pre-pandemic unemployment rate in February 2020 was 3.5%. The US Department of Labor (USDOL) reported a loss of 140,000 jobs in December, with the leisure and hospitality industry and private education reporting the largest losses.

Unemployment varies significantly by industry. The tables below show the industries with the highest and lowest unemployment rates as of December 2020.

Industries with Lowest Unemployment (Dec 2020)

Industry	Unemployment Rate
Financial Activities	3.1%
Government Workers	3.2%
Manufacturing - Durable Goods	3.5%
Education/Health Services	4.1%
Manufacturing - Nondurable Goods	5.5%

Industries with Highest Unemployment (Dec 2020)

Industry	Unemployment Rate
Leisure/Hospitality	16.7%
Mining/Oil and Gas Extraction	13.1%
Agriculture	11%
Construction	9.6%
Transportation/Utilities	8.4%

The Federal Reserve predicts an overall unemployment rate of 5.5% by the end of 2021 and also forecasts economic growth at 4.2% for the year, a significant increase from the GDP growth rates of 2.33% in 2019, 3.18% in 2018 and 2.22% in 2017.

What employers need to do:

- Anticipate continued difficulty recruiting suitable candidates and retaining current employees, especially in industries with low unemployment rates. Recruiting healthcare workers and teachers/educators will be particularly difficult until the COVID-19 pandemic ends.
- Anticipate continued difficulty recruiting entry level candidates. Although many hospitality industry workers remain unemployed, grocery chains and retailers such as Amazon and Walmart are hiring in record numbers.
- Understand who your competitors are for talent in your recruiting market(s) and that these competitors may be different than in the past.

COVID-19

Affinity HR Group continues to provide employers with the latest COVID-19 information. New information emerges and laws and guidelines change on a regular basis and we can expect more of this as 2021 progresses.

As of December 31, paid time off required under the federal Families First Coronavirus Relief Act expired. The legislation provided paid sick time and extended FMLA time for employees who became ill with or assumed family caregiving duties because of COVID-19. Congress passed an extension of the Emergency Paid Family Leave and Emergency Paid Sick Leave as part of its COVID Relief Bill in December 2020 but made the paid leave voluntary for businesses through March 31, 2021. As of January 1, for businesses not voluntarily extending COVID-related paid family leave, employees will now be required to use their personal paid time or unpaid leave.

Several states also have enacted legislation that provides paid leave for employees impacted by COVID-19. Some of these laws also expired on December 31, others did not, and in some states new legislation took effect on January 1.

On December 16, the Equal Employment Opportunity Commission (EEOC) determined that employers may require their employees to get a COVID-19 vaccine and can deny employees entrance to the workplace if they refuse. The Commission determined that this requirement does not violate the Americans with Disabilities Act or Title VII of the Civil Rights Act, but emphasized that employers must provide reasonable accommodation for those with health conditions or sincerely-held religious beliefs that leave them unable to receive a vaccine. Check out the EEOC website to stay up to date.

What employers need to do:

- Expect new federal and state legislation and changes to current guidelines.
- Identify the best resources to help you stay informed of changes/new requirements at the federal, state, and local level and use those resources regularly to stay informed. This is critical for employers operating in multiple locations.

Wage Growth

The USDOL reports that wages increased an average of 3.2% from November 2019 through November 2020. This figure may seem surprising given the extensive job losses, furloughs, and salary reductions caused by the pandemic.

Minimum wage increases that took effect in January 2020 and increased wages for entry level employees driven by competition accounted for much of this increase, but the huge demand for workers such as traveling ICU nurses (salaries frequently exceed \$8,000 per week) has also contributed significantly to this growth.

Early projections for 2021 forecast base salary increases from 2.3% to 2.9%. These forecasts were made in the fall of 2020 and take into consideration the salary volatility experienced in 2020 and the uncertainty of 2021.

What employers need to do:

- Review current pay policies for competitiveness in recruiting market(s) and for internal equity and anticipate the need to increase wages to recruit and retain employees.
- Regularly review recruitment results, turnover statistics, and pay levels for high demand positions. Annual reviews may not acknowledge market volatility.
- Be aware of changes to competitors' salary policies.

Minimum Wage

The federal minimum wage of \$7.25/hr. has not been increased since 2009.

President Biden, however, has stated his commitment to raising the minimum wage to \$15.00/hr. and the Democrat-controlled Senate and House of Representatives are likely to be receptive to considering an increase.

Twenty-four states and 28 municipalities increased minimum wages on January 1, 2021. Seven states currently index minimum wage increases to cost of living increases; expect momentum to continue.

What employers need to do:

- Understand that while most recent activity around minimum wage has taken place at the state and local level, federal changes may take place in 2021.
- Keep informed of what's happening at federal, state and local levels in all the locations where they do business. The National Conference of State Legislatures website maintains a list of current and projected minimum wage rates. Note that this is active, ongoing legislation and that not all changes take effect on January 1.

Legislative Outlook

The Biden administration is committed to championing workers and workers' rights. The nominee for Labor Secretary, Boston Mayor Marty Walsh, has been a labor leader for many years and is likely to support President Biden's campaign promises to help unions expand.

The Occupational Safety and Health Administration (OSHA) has repeatedly rejected requests by members of Congress and labor unions to issue regulations requiring businesses to take specific steps to protect their workers from COVID-19. There are increasing calls for emergency OSHA standards and increased inspections and enforcement. Consideration of these emergency measures will be a 2021 priority for the new administration and may have bipartisan support if it can be seen as providing employer liability protection.

While nothing will happen until the end of 2021 when a then-vacant seat on the National Labor Relations Board (NLRB) can be filled by the new administration, President Biden is expected to work with the NLRB to take several pro-union actions, some of which will apply to all workplaces. The new NLRB is also expected to reverse some of the strong pro-employer policies the Trump administration passed.

What employers need to do:

- Stay informed and up to date on legislative changes. Some are likely to occur early in 2021.
- Increase focus on compliance. Expect increased enforcement of OSHA, OFCCP, and DOL Wage and Hour Division standards and rules.

Compensation and Benefit Issues and Trends

#1 Paid Family Leave: Many states have already passed some form of paid family leave or paid sick leave. President Biden has committed to actively working toward passing legislation that would guarantee workers 12 weeks of paid family and medical leave.

#2 Pay Equity: Prior to 2020, pay equity discussions focused on gender pay inequality. During 2020, that discussion broadened to include racial pay inequality. Nineteen states and 21 municipalities have already passed legislation prohibiting application and interview questions and hiring decisions based on salary history and impose hefty fines on employers who violate the law. Every state is considering some type of legislation to address this issue.

#3 Rules for Independent Contractors: On January 8, 2021, the USDOL announced a final rule for addressing how to determine whether a worker is an employee under the Fair Labor Standards Act (FLSA) or an independent contractor. The rule is complex, but would ultimately make it easier for employers to treat workers as independent contractors rather than employees. The rule will take effect on March 8, 2021 which will give the incoming administration ample time to withdraw it.

State laws may vary and be more restrictive, although a California ballot measure backed by unions that would force employers like Uber and Lyft to treat contractors as employees was defeated in November.

What employers need to do:

- Examine parental leave and related policies in anticipation of additional legislation addressing family and parental leave.
- Examine pay policies, application forms, and interview strategies that may perpetuate pay inequity and make appropriate changes.
- Examine existing classifications for employees and contractors in anticipation of additional legislation.

Immigration

President Biden has committed to comprehensive immigration reform during his first 100 days in office. This will be accomplished via executive order and legislative action.

These proposed actions include creating an 8-year pathway to citizenship for 11 million people living illegally in the US and making the Deferred Action for Childhood Arrivals (DACA) program permanent. The new administration is also expected to greatly expand the federal work visa program.

In March 2020, ICE significantly reduced workplace enforcement activities due to COVID-19. In July, increased enforcement activities resumed with over 2,000 employees arrested. Fines for errors and omissions in forms and related paperwork to appropriately document workers remain at \$224 - \$2,236 per incorrect form.

What employers need to do:

- Stay informed and up to date on legislative and executive order changes. Some are likely to occur early in 2021.
- Ensure proper documentation is in place for current employees and is obtained for all new hires.
- Comply with all requirements for storage and retention of documentation. Check out the US Citizen and Immigration Services website for a full list of requirements.

2021 Occupational Outlook

As we enter 2021, there is much uncertainty about job growth in the US.

In a survey conducted by the Manpower Group in October 2020, only 21% of survey participants said they planned to increase hiring in the first quarter of 2021. Six percent of respondents said they would reduce their payrolls, and the remaining participants reported no anticipated changes. The second round of PPP lending and anticipated economic stimulus initiatives rolled out in 2021 may affect this.

In the fall of 2020, the USDOL issued a long term labor forecast (through 2029) of occupations projected to experience the most growth:

Projected Growth

Occupation	Projected Growth (2019 – 2029)
Wind Service Turbine Technician	60.7%
Nurse Practitioner	52.4%
Statistician	34.6%
Occupational Therapist	34.6%
Home Health/Personal Care Aide	33.7%

Geographically, 2021 employment projections are also uncertain. The option of permanent remote work is likely to impact some areas of the US as employees, especially those in technical and professional level positions, opt out of the traditional “live where you work” model. Sixty-five percent of employer respondents in an October survey conducted by the Economic Research Institute reported offering a permanent remote work option to at least some employees.

What employers need to do:

- Review current pay policies for competitiveness in recruiting market(s) and areas where employees actually live and work. Recognize that competitors may be different in different markets.
- Identify the best resources to help you understand and respond to market changes that may impact recruitment and retention and use those resources regularly to stay informed.