Most Employers Unlikely to Mandate COVID-19 Vaccination, Littler Survey Finds

Littler, the world's largest employment and labor law practice representing management, has released the results of its COVID-19 Vaccine Employer Survey Report completed by more than 1,800 in-house lawyers, human resources professionals and C-suite executives across the United States.

The survey finds most employers unlikely to mandate COVID-19 vaccination for a variety of reasons, mainly centered around company culture and employee relations issues. Instead, most are focused on efforts to encourage vaccination, as well as on continuing remote work and maintaining safety protocols in the workplace, even when vaccines become more widely available.

Mandatory Vaccination

Less than 1 percent of respondents currently mandate vaccination for all employees, and only 6 percent say they plan to once vaccines are readily available and/or the U.S. Food and Drug Administration grants full approval. Nearly half (48 percent) have already decided against requiring immunizations in their workplaces. While it is feasible that vaccine mandates will become more common in the coming months as 43 percent said they were still considering the possibility of such a policy (43 percent), employers cited a plethora of worries about requiring vaccinations.

Top concerns around a mandate are fundamentally linked to employee relations issues: 79 percent cited resistance from employees who are not in a protected category but refuse or oppose vaccination generally, while 67 percent are concerned about a mandate's impact on employee morale and company culture. Legal and administrative concerns added to the

hesitancy: 64 percent are worried about legal liability should an employee experience an adverse reaction, and 47 percent about administrative difficulties with implementing mandates.

Encouraging Vaccination

Despite the hesitancy around mandating vaccinations, the survey suggests employers are focused on encouraging employees to get the vaccine — only 6 percent plan not to. Nearly 90 percent of respondents said they would provide information to employees (such as the benefits of vaccination and how to get vaccinated) and 37 percent said they would offer vaccine administration at their own facility to increase convenience.

Employers highlighted other avenues of encouragement, such as offering paid time off to receive the vaccine or recover from its side effects (33 percent) and providing incentives to employees, such as cash awards or other monetary benefits (11 percent). The latter option in particular is one many employers are likely considering, but the low percentage of those currently planning to offer such incentives likely reflects the complicated issues involved in administering such a policy — including employee benefits and wage and hour issues.

Remote Work Policies and Return-to-Work Considerations

For employers that elect not to mandate vaccinations — and even for those who do — there will inevitably become a split in the workforce among those who have and have not been vaccinated. It follows that 72 percent of respondents expressed at least some concern about providing reasonable accommodations to those who cannot or who refuse to get vaccinated.

This concern may explain why most respondents appear to be decoupling remote work policies from vaccinations. In reflecting on their plans to bring remote workers back to the physical workplace, just 7 percent said they would bring only

vaccinated employees back once vaccines are widely available, and only 6 percent said they would bring all employees back (and keep unvaccinated employees separate). What's more, 49 percent are extending remote work at least into the summer and 37 percent are allowing employees who wish to work on-site to do so on a voluntary basis.

Respondents identified a wide-range of COVID-19-related precautions they plan to keep in place even after vaccines are readily available, including encouraging or requiring wearing face masks (81 percent), modifying physical workplaces to maintain distance between workers (66 percent), limiting or restricting employee contact in common areas (62 percent), increasing frequency and depth of cleaning (56 percent), and conducting employee temperature or symptom screenings (50 percent).

Workplace Testing

Providing access to COVID-19 testing is another way to keep employees safe in the workplace: 36 percent of respondents are either currently providing testing, planning to test or considering it. While 49 percent said they do not plan to, this is likely mainly a reaction to the high cost and myriad legal issues raised by testing, including employee privacy and information security issues.

 Download the Littler COVID-19 Vaccine Employer Survey Report.