



FP Flash Survey Reveals Delta is Driving a Dramatic Jump in Employers Requiring COVID-19 Vaccine, But Most Companies Still Not Mandating

Insights

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The proportion of employers mandating or considering mandating the COVID-19 vaccine increased nearly four-fold in the past three months, spurred by fears surrounding the Delta variant and the growing confidence that such mandates are permitted by the law. 15% of employers said they were now mandating or considering requiring their workers to be inoculated as a condition of employment, a dramatic jump from the mere 4% that fell into that camp as recently as May. That's according to the results of a survey conducted by Fisher Phillips, with 724 respondents providing their thoughts between August 4-6. The results of this survey – the third one conducted by Fisher Phillips since the start of the year – paint the picture of a nation becoming more willing – or possibly even feeling compelled – to bear the risks associated with a workforce vaccine mandate. At the same time, it is noteworthy that despite this big shift toward requiring vaccines, a full two-thirds of those surveyed said they remain opposed to outright mandates.

Amid Growing Support for Vaccines, Responses Show a Huge Increase in the Percentage of Employers Buying into Mandates

The most significant results of this latest survey relate to the increased percentage of employers either requiring their workers to get vaccinated or considering such a policy. While only 4% of respondents indicated they would go this route in the survey completed between May 14-19, that number jumped to 15% in this most recent survey. Not surprisingly, the number of employers opposed to a mandate dropped significantly over the past three months, from 83% in May to 68% in August. There was a slight uptick in employers uncertain about whether they would mandate the vaccine during that same timespan, from 13% to 17%.

Meanwhile, the number of employers actively encouraging their workforces to get vaccinated against the COVID-19 virus remained relatively steady. 79% of employers are doing so now compared to 75% in May. Only 14% of employers are not encouraging the vaccine, a dip of four percentage points from the 18% reporting such in May.

Delta Variant and Eased Legal Concerns Account for Massive Shift in Employer Perspectives

When we asked employers about which factors most influenced their decision towards mandating or considering mandating the vaccine, the overwhelming top reason was the rise of the Delta variant. A

full 64% of employers that changed their policy in this direction did so because the Delta variant of COVID-19 causes them concern about an outbreak among their workers or visitors. At the same time, a big jump in respondents – from 13% in May to 23% in August – said that they believe the law now permits employers to require the vaccine, causing them to change their attitudes toward mandates. No doubt that the recent Department of Justice advice memorandum clearing mandates despite the emergency use authorization status and the initial court decisions upholding workplace mandates influenced this thinking.

Other prime factors that have led employers to feel more comfortable with the concept of vaccine mandates over the past several months include:

- A quarter of those employers (24%) see requiring vaccinations as serving the greater good;
- 16% believe their workforce is now more receptive to being vaccinated;
- 13% of those employers reported that they want to be able to appeal to customers and visitors that their staff has been vaccinated; and
- 12% want to see more remote workers spend time at the physical workspace.

Which Employers Are Most Likely – And Least Likely – To Mandate the Vaccine?

The FP Flash Survey asked respondents to identify their industry, allowing us to determine which types of employers are most likely – and least likely – to require their workforces to get vaccinated. Not surprisingly, the healthcare field leads the pack by a considerable margin. Meanwhile, hospitality employers are also eager to see vaccinated workforces, leading to relatively high percentage of mandates in that industry.

Industries Most Likely to Impose Mandate

- Healthcare: 42%
- Hospitality: 29%
- Education: 24%
- Non-Profit or Civic Organizations: 22%

Industries Generally in Line with Overall Average

- Professional and Technical Services: 14%
- Technology: 14%
- Retail: 13%
- Construction: 11%

Industries Least Likely to Mandate Vaccine

- Automotive: 9%
- Manufacturing: 8%
- Staffing, PEO, and Employment Services: 7%
- Finance and Insurance: 5%

Employee Hesitancy and the Wait for Full FDA Approval Fuel Employer Reticence

But when it comes to those employers who remain opposed to a vaccine mandate at their workplaces – and that proportion remains quite substantial – the two biggest concerns fueling their reticence are the belief that everyone in their workforce who is willing to get the vaccine has already been vaccinated (51%) and the concern that employees are not receptive to a mandate (21%). These employers are concerned about rocking the boat when it comes to workplace relations, perhaps with the thought that employees may quit their positions and find work elsewhere should they be forced to submit to an unwanted vaccine. These factors, and the federal government’s model – which requires more frequent testing of unvaccinated workers – seem to make it more palatable for employers to continue to encourage vaccines without requiring them.

Some other interesting data:

- One in ten employers hesitant to impose a vaccine mandate cite the failure of the FDA to fully approve the three main COVID-19 vaccines as a motivating factor for their decision.
- A factor that seems to be diminishing when it comes to presenting a roadblock to employer mandates is legal concerns. While 32% of employers reported in May that the uncertain legal status of vaccine mandates caused them hesitancy to impose such a requirement, only 18% shared such concerns during the August survey. That’s a substantial drop in the proportion of employers concerned about whether vaccine mandates would be legally enforceable.

Further Resources

Employers wishing to explore further vaccine-related resources on the Fisher Phillips [Vaccine Resource Center for Employers](#) might find the following recent publications helpful:

- [5 Options for Employers Wanting to Improve Vaccination Rates](#)
- [CDC Reverses Course and Recommends Fully Vaccinated Individuals in “Substantial” and “High” Transmission Areas Continue to Wear Masks](#)
- [Employers Now Have 2 Clear Options to Provide Vaccine Incentives Thanks to New EEOC Guidance](#)

Conclusion

We will continue to monitor developments related to the COVID-19 vaccines and related workplace questions that arise. Make sure you are subscribed to [Fisher Phillips' Insight system](#) to get the most up-to-date information. If you have questions about how to ensure that your vaccine policies comply with workplace and other applicable laws, visit our [Vaccine Resource Center for Employers](#) or contact your Fisher Phillips attorney or any attorney on our [FP Vaccine Subcommittee](#).

Meanwhile, we will continue to survey employers on the most pressing topics of the day on a regular basis and report back on the results. To ensure you are part of the process, please subscribe to [Fisher Phillips' Insight system](#).

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