

Insights, News & Events

# PANDEMIC-VERSARY IS UPON US: THE 5 WAYS YOUR WORKPLACE IS DIFFERENT NOW THAN 3 YEARS AGO

Insights  
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It was March 11, 2020 – three years ago – that a series of earth-shattering events occurred over the course of a few hours that would forever change the nature of the workplace. Most of us remember exactly where we were on the day the World Health Organization declared COVID-19 to be a pandemic, President Trump banned European travelers from entering the U.S., and movie icon Tom Hanks became the first person many of us “knew” to announce they had COVID. The shocking news came fast and furious that afternoon and evening as we saw the stock market plunge, received word that schools across the country would shut down for “two weeks,” and the NBA postponed the rest of its season. More stressful days, weeks, and months followed that fateful day – and while many restrictions have been lifted and life has (mostly) returned to normal, the pandemic’s impact has forever shifted workplace norms. As we take stock on the past three years, what are the five biggest ways your workplace is different now than on March 11, 2020?

## 1. Emphasis on Workplace Safety

If you polled your average HR executive or in-house counsel about workplace safety back in 2019, odds are that most would say the topic should be a focus for warehouses and construction zones and the like, but not for *them* – especially white-collar office settings. Fast forward three years, and workplace safety is at the top of your list when it comes to compliance priorities regardless of industry.

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Three years of diligence and attention have conditioned most workplace leaders to now recognize the role that safety should have had in your organization all along. At the same time, the federal workplace safety agency OSHA has been empowered by the White House to be much more aggressive when it comes to scrutinizing employment safety practices. We've developed a [six-step plan](#) you should consider to make sure your organization is in the best possible position given this new focus.

This attention to detail is more important than ever given [OSHA's increased penalties](#) and [the NLRB's plan](#) to allow union leaders to accompany OSHA inspectors when they walk through your workplace – even if you have a non-unionized environment.

And finally, while your COVID-related obligations may not be as onerous as they once were, you still need to be aware of [new and emerging variants](#) that may pop up now and again and how they impact your policies and practices.

If you still feel like you're behind the curve, you should read [part one of our "Focus 4" series](#) containing threshold tips for surviving an OSHA inspection – and make sure you are [subscribed to our Insight system](#) to catch the next three.

## 2. WFH and Hybrid Work

The COVID-19 pandemic resulted in unprecedented change for the workplace as stay-at-home orders, isolation and quarantine requirements, and accommodation requests resulted in many employees temporarily working from home. Employers and employees alike recognized certain benefits of remote work arrangements, which led many business leaders to explore hybrid and permanent remote work policies. [According to one recent survey](#), only 6% of workers were fully remote prior to the pandemic, and that number has grown to over 26% in the current day. As for part-time remote or hybrid workers, it's estimated over 66% of all American workers spend part of their workweek at home.

There is little doubt that WFH and hybrid work is here to stay — and while not all industries and jobs are a fit for such arrangements, businesses that don't offer them face the possibility that employees will leave for an employer that does.



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You've likely had to rethink many of your practices, such as deciding who gets to work from home, how you will pay remote workers, how you will protect confidential information and trade secrets, and how you will develop and rollout consistent policies for your new work arrangements. But do you still feel like you need to fine-tune your WFH program?

- You can read more about updating and refining your remote work policies [here](#).
- You can find a six-step plan to legally manage your remote employees [here](#).
- For more information on compensating remote and hybrid workers, [read our Insight](#) on the eight biggest considerations when deciding your work-from-home compensation strategy.
- And for information on how to protect company trade secrets in a remote or hybrid workforce, [read our Insight here](#).

### 3. Mandatory Vaccines

While the debate has largely died down and most non-healthcare employers no longer require COVID vaccines, the precedent has been established: corporate America will require their workers to get vaccinated if the circumstances are right. While it used to be just healthcare workers who were required to get inoculated around flu season, we have lived through an era where [as many as 30% of employers](#) mandated their workers get a vaccine for COVID-19.

What will the future bring when it comes to mandatory vaccines? Will we see reemergence of mandates if COVID becomes a seasonal reoccurring concern? Will we eventually see mainstream non-healthcare employers require annual flu shots?

One thing is for sure: if another pandemic rears its head, we now know employers in large numbers will take a stand and require vaccines, even if that means being forced to fire non-complying workers, deal with labor shortages, navigate public relations and morale issues, and even defend lawsuits. Most of those lawsuits will arise from employees asserting the need for an exemption from vaccines due to religious or disability accommodations. As many employers

have learned over the past several years, the biggest hurdle to overcome in such cases is demonstrating that they appropriately evaluated the accommodation requests rather than summarily dismissing them.

#### 4. Worker Empowerment

One of the most intriguing aspects of the pandemic was the way that external forces operated in concert to shift workplace power into the hands of workers. An immediate and staggering rise in unemployment was quickly met with massive amounts of aid doled out by Congress in the form of unemployment compensation and other payouts. As the economy quickly rebounded, employers in all sectors — especially those in hospitality, retail, healthcare, and education — found themselves in need of workers to staff their organizations. But with many employees choosing to remain at home or stringing together part-time or gig positions, most employers found themselves in an unfamiliar position: at the mercy of a recalcitrant workforce.

Employers were left dealing with aftershocks of the “Great Resignation,” leading them to [adopt new DEI efforts](#) to attract and retain talent, reformulate hiring protocols to prevent getting “[ghosted](#)” by applicants, and consider offering [unlimited PTO](#) or [four-day workweeks](#) to stand out from the crowd.

In the next phase of workplace culture, we’ve seen a rise in “[quiet quitting](#)” and its angry cousin: “[resenteeism](#).” You can learn about some tactics to address these concerns in our linked Insights on these topics.

Meanwhile, 2022 saw a significant uptick in employee activism and work stoppages throughout the country. In fact, there were approximately 380 strikes involving more than 200,000 workers in 2022, compared to “only” 265 work stoppages in 2021 involving approximately 140,000 workers. Beyond strike activity, there were 2,510 union representation petitions filed with the NLRB last year — the highest number since 2016 and a 53% increase from 2021. [Given that strikes and organizing are expected to only increase in 2023](#), you need to make sure you have a plan in place to address the realities of the situation.

#### 5. Emphasis on Employee Well-Being

Finally, one of the silver linings of the pandemic has been the emphasis placed on employee mental health and well-being. [Nearly 60% of employers](#) said they started a conversation about mental health in the workplace during the pandemic, and more than four in 10 have seen reasonable accommodation requests related to mental health issues spike since the pandemic started. These conversations have invariably led to better performing — and healthier — employees.

Unfortunately, an even larger number of employers say that their retention efforts have been hampered because of mental health concerns. 51% say they have fielded reports of burnout or mental fatigue, 46% say they have faced higher levels of turnover, and 34% say they have seen increased absenteeism.

The good news is that there are solutions for the various mental health and well-being challenges that exist in the modern workforce:

- We have developed [a comprehensive 10-step plan](#) for you to achieve mental health wellness in the workplace.
- The pandemic has been especially trying for working mothers – we developed [a six-step guide](#) for employers to support them.
- It also has led to an increase in opioid abuse among workers; we have prepared [some practical steps](#) to assist your workforces.
- We've also assembled [five ways your organization can embrace neurodiversity](#).
- And steps for employers to support [gender transitioning](#) in the workplace.

## What Will the Future Hold?

While it's hard to forecast the future in such turbulent times, we can offer three predictions for 2023 when it comes to further pandemic aftershocks.

1. Sometime soon, OSHA will release a COVID-specific rule to address the virus in the healthcare setting. It will require a great deal of compliance work from employers when it comes to preventive care and will usher in a new era related to reacting and responding to outbreaks.

2. We also expect the agency to issue a broader infectious disease regulation that will apply to all workplaces, which means you'll need to stay up to speed on workplace safety for the foreseeable future.
3. This one we feel most confident in predicting: Fisher Phillips will remain at the forefront of tracking all the workplace developments you need to know about and reporting on them in our timely and practical Insights. Make sure you are subscribed to [Fisher Phillips' Insight System](#) to get the most up-to-date information direct to your inbox.

## **Conclusion**

If you have questions, contact your Fisher Phillips attorney or the authors of this Insight.