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Labor & Employment Client Alert

The EEOC Has Been Requested to Provide Guidance on Vaccine Incentives

The EEOC should clarify what types of incentives employers can legally offer workers to encourage COVID-19 vaccinations, according to a letter signed by more than 40 business groups on February 1, 2021. It is available here: [Letter to EEOC](#).

In the letter, the groups requested the EEOC to weigh in on incentives, as some employers are offering financial perks, such as additional pay or bonuses to workers who get vaccinated.

“Legal uncertainty about providing such incentives, however, has many employers concerned over liability and has made them hesitant to act,” the groups, including the U.S. Chamber of Commerce, the International Franchise Association, and the National Restaurant Association, said in the letter addressed to EEOC Chair Charlotte Burrows. “To ensure the guidance is as effective and efficient as possible, we also encourage the EEOC to define what qualifies as a permissible incentive as broadly as possible.”

The EEOC enforces federal anti-discrimination laws, including the Americans with Disabilities Act, which could limit the incentives companies can offer, according to the letter. Incentives offered by employers to encourage participation in workplace wellness programs, for example, “have been closely scrutinized over the years and are the subject of recent regulations,” the letter stated.

In its most recent set of proposed rules to regulate wellness program incentives, the agency said employers may offer a gift card of “modest value” or a water bottle, for example. Those measures, unveiled earlier, did not address pandemic-specific topics, such as inoculation. It is unclear whether wellness program regulations would apply to vaccinations.

Also, the CDC has posted a comprehensive COVID-19 Vaccine Communication Toolkit for Essential Workers in the US. It is available here: [CDC Vaccine Communication Toolkit](#)

Please contact Brian Kreucher or your Howard & Howard Labor and Employment attorney for the latest guidance on vaccination programs.



Brian A. Kreucher

bkreucher@howardandhoward.com

248.723.0441

