



The Littler[®] Annual Employer Survey Report

MAY 2026

Littler[®]

Executive Summary

U.S. employers are recalibrating workforce strategies in 2026 as the rapid advance of artificial intelligence (AI) and an increasingly complex regulatory landscape compound ongoing pressures tied to various Trump administration priorities.

To understand how businesses are adapting to recent developments, Littler surveyed more than 300 U.S.-based C-suite executives, in-house lawyers and human resources (HR) professionals across a range of industries and company sizes. This year's research shows that while issues at the top of employers' agendas over the past year – including immigration and diversity, equity and inclusion (DEI) – remain consequential, other areas such as AI and data privacy are moving to the forefront.

AI AND DATA PRIVACY TAKE CENTER STAGE AS EMPLOYERS ADJUST TO IMMIGRATION AND DEI POLICY CHANGES

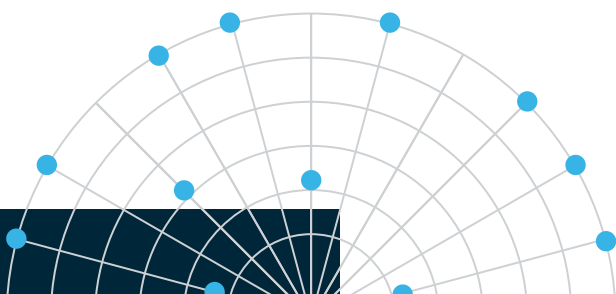
In a notable shift from last year's survey, AI is now the leading area where employers expect changes to workplace policy and regulation to impact their businesses. The majority of respondents (84%) expect to be impacted by policy or regulatory changes related to AI use in the workplace over the next 12 months – double the share that said the same in 2025, when DEI ranked first. Data privacy rose in tandem, with 53% expecting workplace impacts over the next 12 months, up from 31% in 2025. This comes as accelerating AI use across business operations increases exposure to data privacy compliance risks.

By contrast, the share of employers expecting to be impacted by immigration policy changes over the next year fell to 49% this year from 75% in the 2025 survey, while DEI dropped to 38% from 84%. These declines do not mean these issues have gone away. Rather, they may reflect that many employers have adjusted to the current enforcement landscape in the second year of the Trump administration and have taken steps to prepare.

Employers are still highly attuned to immigration enforcement risks, as 73% expect enforcement by the Department of Homeland Security (DHS) and U.S. Immigration and Customs Enforcement (ICE) to impact their workplaces over the next year. Additionally, this year's survey finds employers taking a range of proactive steps to address the workforce staffing impacts of immigration policy and enforcement changes, including clarifying plans and processes and preparing for worksite enforcement activity.

ACCELERATING AI ADOPTION PROMPTS SHIFTS IN WORKFORCE NEEDS, LITIGATION CONCERNS

As AI becomes more deeply embedded across workplace functions, employers are starting to reevaluate existing and future staffing needs. In light of expected AI-driven efficiency gains, 37% of respondents say their organizations have reassessed, or are reassessing, job responsibilities. Another 20% report that they have either reduced hiring or are in the process of doing so, while 15% say the same about workforce reductions.



The survey also reveals meaningful, but uneven, advances in AI governance. More than two-thirds of respondents (68%) report having a formal policy governing AI use in the workplace, a substantial increase from Littler's [2025 Employer Survey](#) when 38% said they had a specific policy to address employees' AI use and 13% had developed guidelines. Yet only about half of respondents report having a formal review or approval process for AI tools or use cases (55%), or restrictions on the information that can be entered into them (54%) – steps that limit legal and operational risk at the point where AI is actually used.

Those readiness gaps come as 79% of respondents express concern about AI-related litigation over the next 12 months. Data privacy (49%), discrimination or bias (45%) and compliance with state and local AI laws (43%) are the leading areas of concern.

EMPLOYMENT LITIGATION AND WORKFORCE ACCOMMODATIONS ARE TOP OF MIND

Employers anticipate litigation risk across a broad range of workplace issues in the coming year, with concern rising in most of the areas queried. Among the most notable shifts came in the area of workplace accommodation, which saw a 17 percentage-point increase in employers concerned about employment-related litigation over the next year (67% expressed concern this year, compared with 50% in the 2025 report).

Employers continue to grapple with pandemic-era expectations regarding flexible work that complicate their push for more in-office work and, at the same time, report an ongoing rise in mental health-related leave of absence and accommodation requests.

Hybrid work remains the dominant model for positions that can be performed remotely, with most respondents (77%) indicating that their organizations are providing some type of hybrid work arrangement. Only 16% have employees that are fully on site and just 6% have employees that are fully remote.

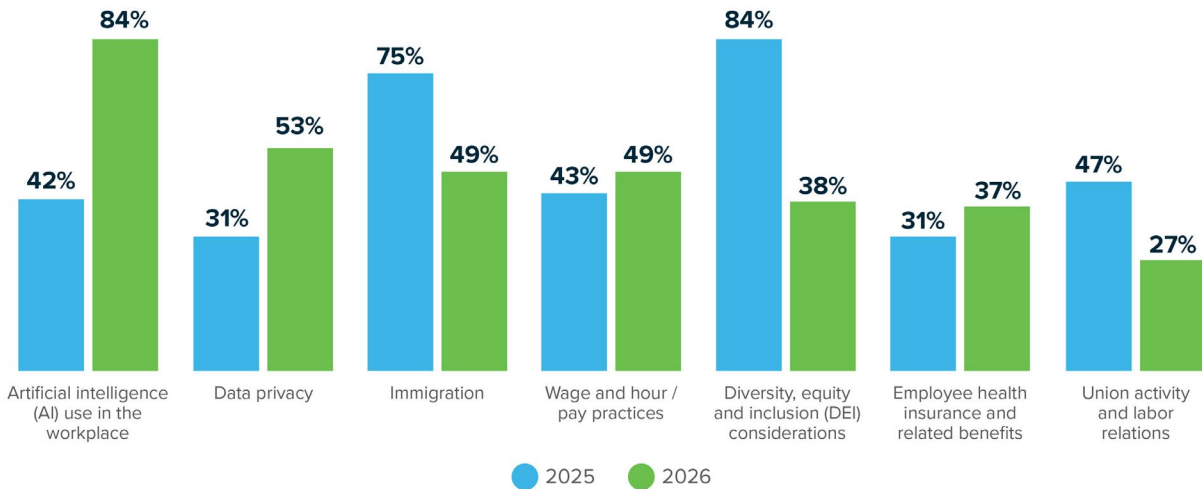
Over the past year, 67% of employers say they experienced increases in the volume of mental health-related leaves of absence and accommodation requests. This follows two years of survey data in which employers reported a similar increase in the amount of leave and accommodation requests related to mental health conditions.

The report that follows examines these and other issues in greater depth, including the active role of state legislatures in advancing labor-friendly policies, evolving False Claims Act (FCA) enforcement trends (where respondents are particularly concerned about the enforcement activity related to unlawful DEI practices), and key challenges when employees depart to competitors (including the removal of confidential information and restrictive covenant violations).

The survey questions and their resulting findings do not represent any specific political affiliation or preferences of Littler, nor do they convey or constitute legal advice. For a breakdown of respondent demographics, see the [methodology and demographics section](#).

WORKPLACE REGULATION AND POLICY

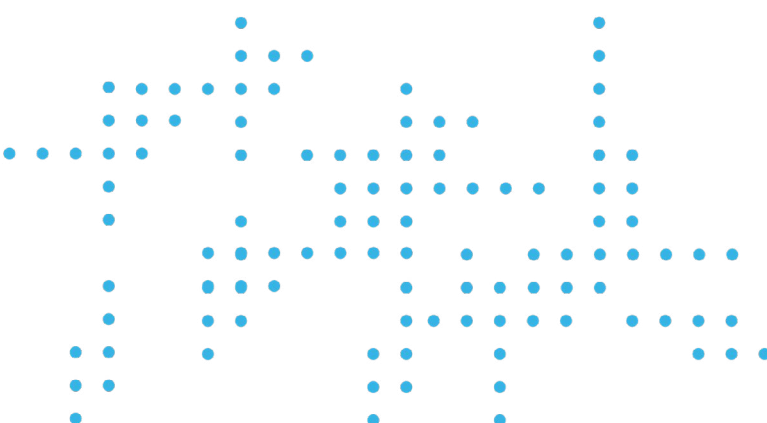
In which of the following areas do you expect changes to workplace policy and regulation over the next 12 months that will impact your business? (Select all that apply)



U.S. employers are bracing for new developments in workplace policy and regulation over the next year as technology-related issues – namely, AI and data privacy – come more to the forefront after a year largely defined by signature Trump administration priorities such as immigration enforcement and scrutinizing DEI initiatives.

AI's potential to transform businesses and [upend workflows](#) continues to dominate headlines – and presents a range of compliance dilemmas. While states continue advancing AI-related laws that can impact private sector employers, the White House is pursuing a [lighter-touch regulatory approach](#) intended to limit state regulation of AI.

Given these shifts and the rapid evolution of AI tools in recent months, it follows that AI in the workplace is the leading area where employers expect changes to workplace policy and regulation to impact their businesses in the year ahead. A notable 84% of respondents chose AI – double the share (42%) that selected it in 2025, when DEI considerations ranked as the top area of concern.



Data privacy regulation is the next highest area where employers predict workplace impacts over the next 12 months. While it trails AI substantially at 53%, data privacy is weighing more heavily on organizations than it did last year, when 31% selected it. That jump is likely a result of state and local legislative moves in [California](#), [Maryland](#) and elsewhere that continue to increase data privacy requirements for employers and businesses, as well as the prominence of data privacy issues associated with AI use.

Immigration tied for the third top area but saw a sharp drop compared to employer expectations on the issue last year. It fell to 49% – 26 percentage points lower than in 2025, when 75% of respondents anticipated impacts from changing immigration policy and regulation in the year ahead. This shift may reflect that many have already created protocols and action plans and are more prepared than they were last year. Large employers and employers in certain industries may bear a greater share of immigration-related impacts, however, with 61% of large employers and 70% of respondents in the hospitality and retail industries expecting effects.

To be sure, immigration remains a major focus for many employers after a year that saw major ICE enforcement surges in Los Angeles, Chicago and Minneapolis. In a separate [survey](#) conducted recently by Littler's Workplace Policy Institute® (WPI), 65% of employers (and 79% of those from large organizations) reported that shifts in immigration policy during the first year of the second Trump administration impacted their businesses. By contrast, only 30% of employers said they had been impacted by AI-related policy changes over the past year.

The marked year-over-year decline on immigration may reflect an adjustment among employers to the new immigration normal after the initial shock from enforcement measures taken in the first year of the Trump administration. However, the landscape ahead is still characterized by considerable uncertainty, and employers would be prudent to expect more activity due to the significant increase in funding for ICE as part of the One, Big, Beautiful Bill Act.

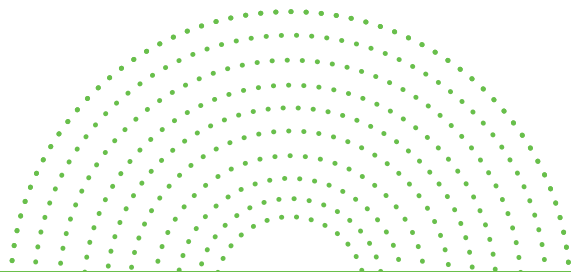
DEI saw an even larger reversal from last year's survey than immigration, likely for similar reasons. Fewer than 4 in 10 respondents (38%) expect business impacts due to changing policy or regulation, compared to the 84% who said the same in 2025. As with immigration, a greater share of large employers (52%) – who may be more likely targets for federal probes and scrutiny – anticipate impacts in the coming year.



The reversal on expected DEI impacts follows a tumultuous year in which the Trump administration’s push to dismantle such initiatives across the federal government and private sector included a flurry of executive orders, [several rounds of guidance](#) from the Department of Justice (DOJ) and Equal Employment Opportunity Commission (EEOC), and scrutiny of corporate DEI programs by the Federal Communications Commission. The majority of employers (71%) surveyed in the [WPI report](#) said DEI policy changes over the past year had impacted their businesses.

In another shift from 2025, the share of respondents who cite changes to union activity and labor relations policy as an expected area of impact also declined. Only 27% selected it this year, compared to 47% in 2025. These numbers are not surprising, in part because of anticipated (now actual) personnel and internal policy changes and a backlog of cases at the National Labor Relations Board (NLRB) along with data showing a decline in organizing and strike activity compared to prior years, and the current economic uncertainty workers and unions face. These are the key factors driving state and local leaders in California, New York, Illinois, Washington and other places that are advancing pro-union laws and policies that companies need to keep a close eye on.

Finally, the jury remains out on how big or how fast a role AI will play in labor relations in the coming months. There are early signs that unions are raising the specter of machines and “bots” displacing employees as an issue for the union-curious to organize around and address at the bargaining table. As AI plays a role in workforce reductions and reshapes workers’ roles and responsibilities, as [discussed later in this survey](#), some employers could see a resulting uptick in organizing interest among employees or increased focus by unions on AI use during bargaining negotiations. This is an important reminder that as businesses further integrate AI into their operations, they should also assess the employment-related implications and adapt their employee engagement focus.



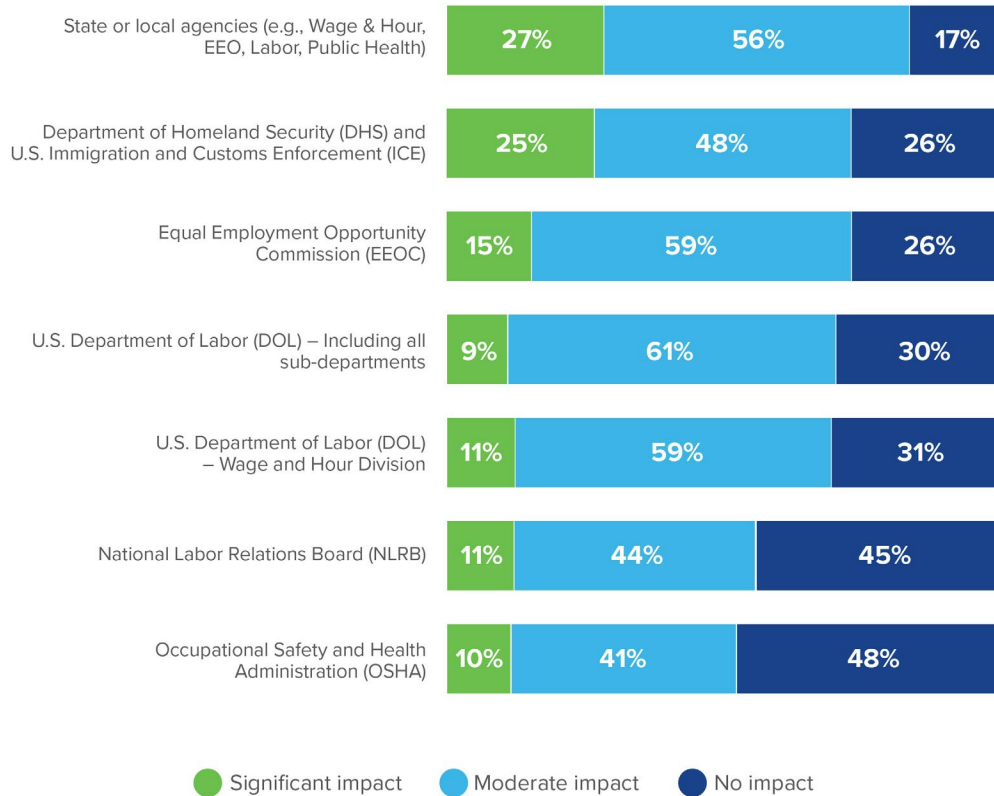
“While immigration and DEI remain in play, organizations appear to be adjusting to a ‘new normal’ in the second year of the Trump administration and turning their attention to what’s coming next – particularly AI – as the workplace policy and regulatory landscape continues to evolve. However, state and local action on issues like data privacy means employers must also keep a close eye on such developments while also mapping out plans to manage emerging risks around AI and ongoing compliance obligations.”

[James A. Paretti Jr.](#),
co-chair of WPI, Littler’s government
relations and public policy arm

[Shannon Meade](#),
executive director of WPI



How much impact do you expect enforcement by the following regulatory agencies, and compliance with their respective requirements, to have on your workplace over the next 12 months?



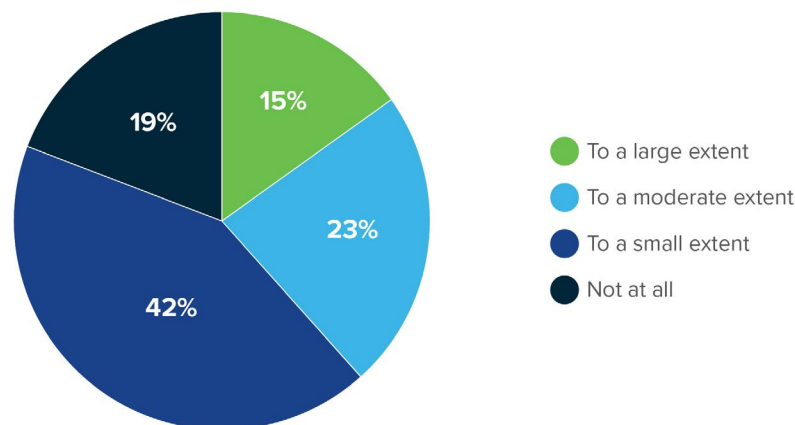
In the second year of the Trump administration, employers expect enforcement and compliance pressures in the next 12 months to be driven primarily by state and local regulators, as well as by federal agencies responsible for implementing key parts of the president’s agenda.

More than 8 in 10 respondents anticipate some degree of impact on their workplace from state and local agencies in areas such as wage and hour, equal employment opportunity, labor and public health, with 27% expecting a significant impact. This comes amid legal challenges to some administration moves on workforce policy, as well as actions from states and localities such as California and New York City to step up efforts in areas where federal agencies favor a more deregulatory approach. It also tracks with the recent WPI report, in which 89% of employers said they had been impacted by legislative changes and new workplace regulations at the state and local levels over the past year (see page 6 [here](#)).

Given the administration’s intense focus on immigration, it’s no surprise that DHS and ICE rank second among the regulatory bodies where organizations anticipate such impacts. Nearly three-quarters (73%) expect consequences in the workplace, with 25% predicting significant impacts. Similarly, 74% of respondents anticipate some degree of impact from the EEOC, which, [now that it has a quorum](#), is expected to further prioritize scaling back DEI and advancing the rights of religious workers, among other efforts. Seven in 10 respondents predict enforcement by the Department of Labor (DOL) will affect their workplaces in the next 12 months, which comes as the DOL is expected [to ramp up rulemaking](#) in 2026.

Notably, the administration’s signature priorities on immigration and DEI are also influencing enforcement by the DOL and other agencies. In September, for example, the DOL launched a major initiative by its Wage and Hour Division called “[Project Firewall](#)” targeting H1-B visa abuse, with penalties including back wages, fines or being blocked from using the program. Additionally, the DOL’s Fraud Detection and National Security Directorate is stepping up its role in reviewing H1-B visa applications, while the EEOC is also taking on the issue, asking employers how many H1-B applications they have filed with an eye to potential reverse discrimination claims.

As states have become more active in advancing labor law legislation – including bills that would transfer responsibility from the NLRB to state agencies and union-supported labor policies such as banning mandatory employer-sponsored meetings – to what extent is your organization monitoring this activity?

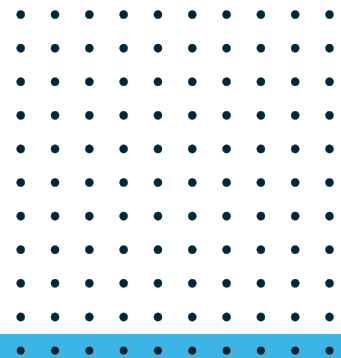


While respondents are monitoring the growing patchwork of labor-friendly policies adopted at the state and local levels, the numbers show employers are not paying as much attention as they should.

As federal regulation in the labor law arena remains largely in a wait-and-see mode, states are moving ahead with a range of actions, including legislation that transfers jurisdiction over union organizing and collective bargaining disputes from the NLRB to state agencies in certain circumstances, as well as laws banning mandatory employer-sponsored meetings. The result is an increasingly complex web of regulations that present compliance challenges for employers.

Yet a surprisingly small share of respondents is paying close attention. Just 15% say their organizations are monitoring this activity to a large extent, and this only rises slightly to 22% among large employers – the group that would most likely be impacted. Similar shares of respondents are tracking the issue to a moderate extent (23% of all respondents; 26% of large employers), with larger percentages of both groups doing so only to a small extent (42% and 38%, respectively).

Employers in Democratic-controlled states and cities in particular should be on high alert, as state and local governments step up to fill what they perceive as voids in federal labor law and pending reform efforts.



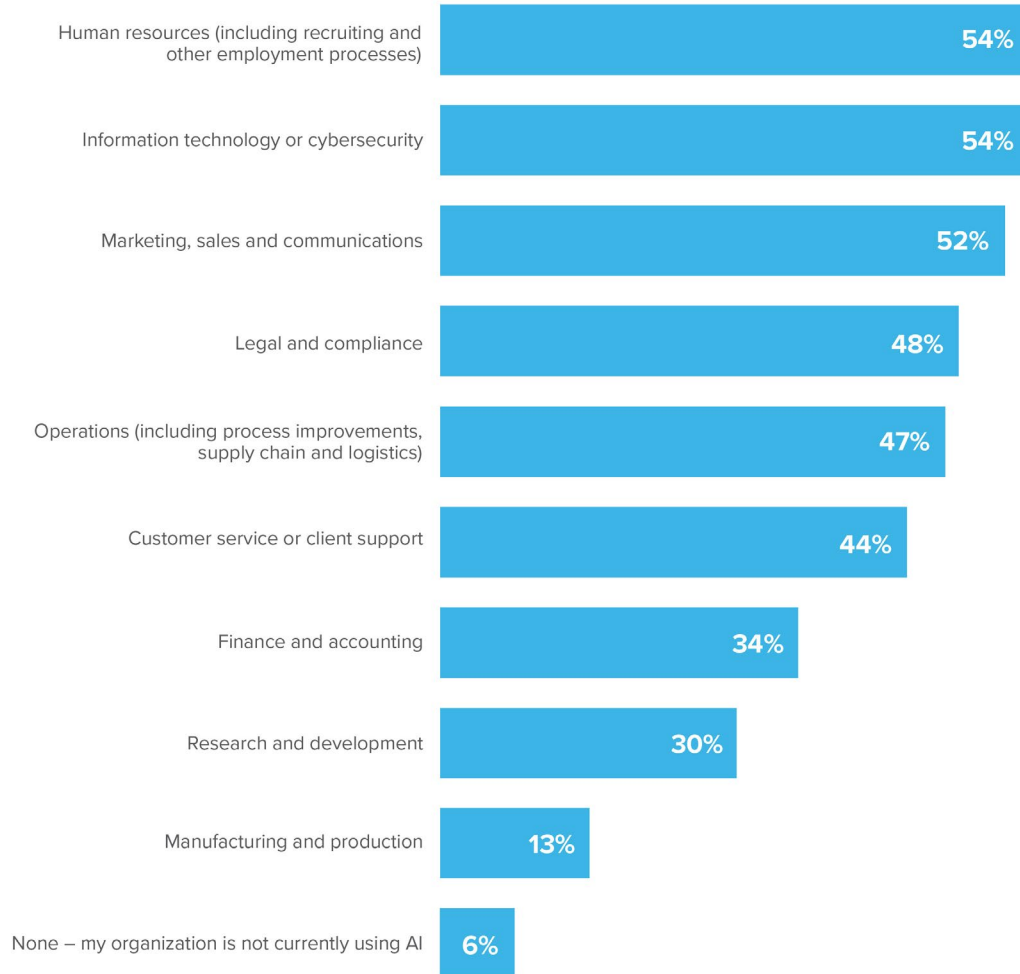
“When it comes to labor law reform at the federal level, whether it be efforts in Congress to amend the National Labor Relations Act or precedent-changing decisions from the National Labor Relations Board, employers rightly expect no or slow going. But that’s exactly why they need to pay close attention to what’s happening and get their leaders and lobbyists in the ring at the state and local levels. If employers don’t engage now, they’re going to end up dealing with a patchwork of labor law and regulation, similar to what businesses are already grappling with in other areas of employment law, that has a very real negative impact on how they operate.”

[Jonathan Levine](#),
co-chair of Littler’s [Labor Management Relations Practice Group](#)

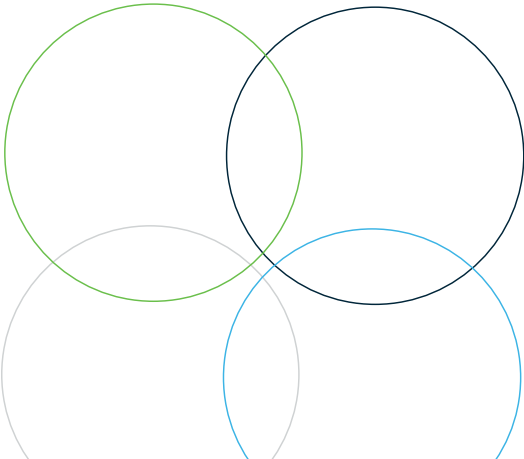
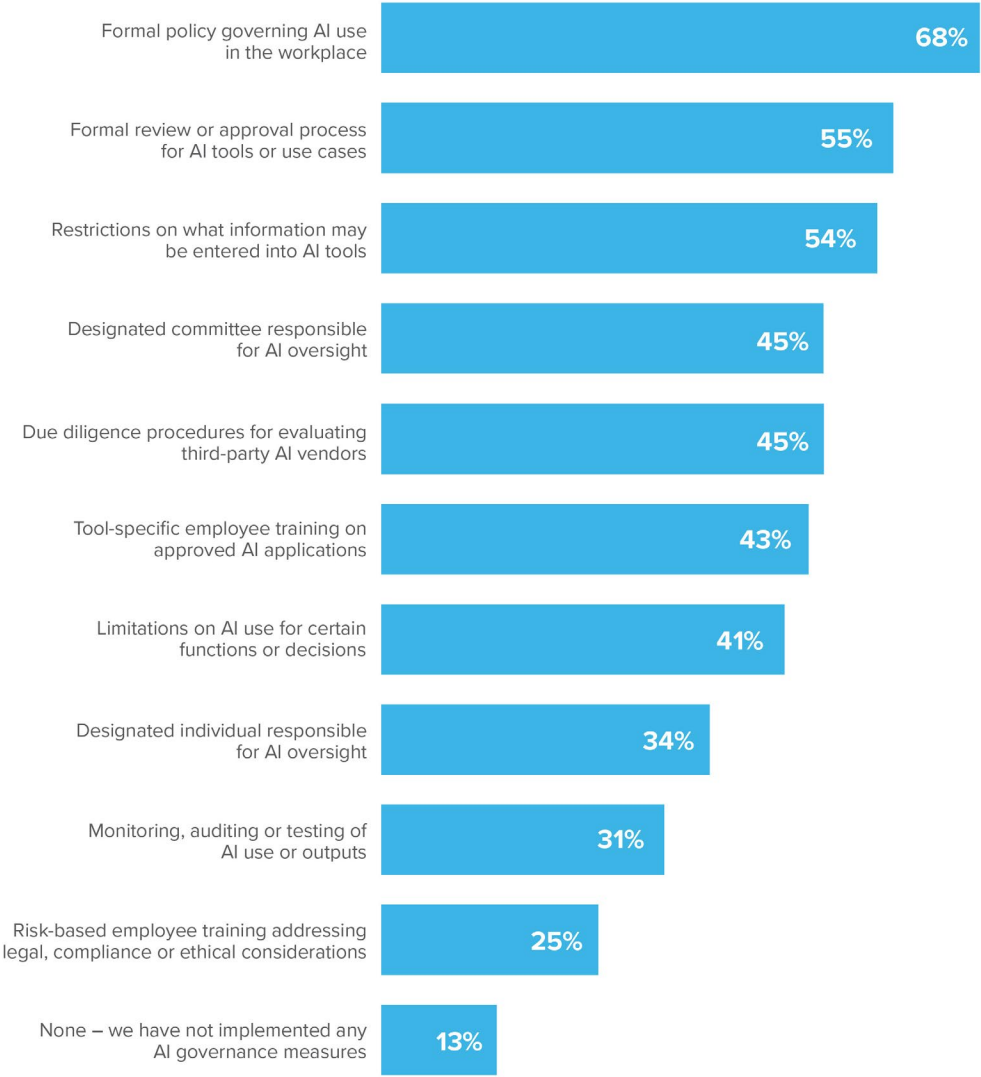


AI IN THE WORKPLACE

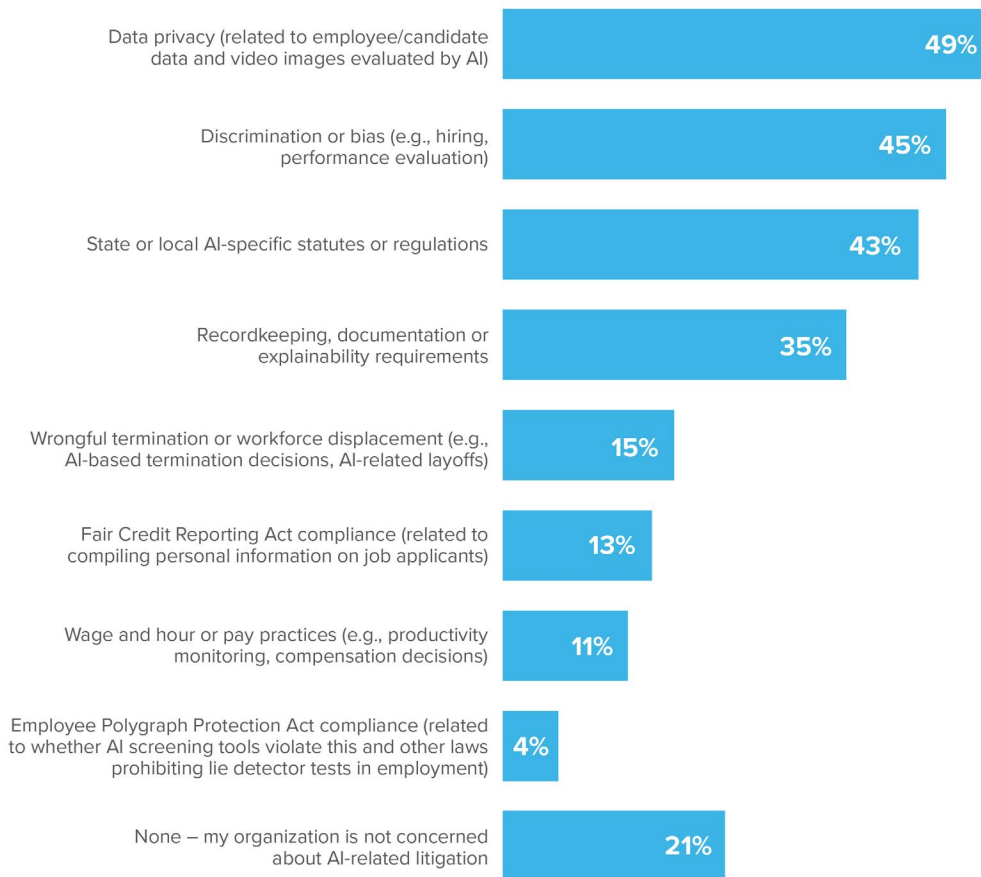
In which of the following areas of your organization is AI currently being used?
(Select all that apply)



**Which of the following AI governance measures has your organization implemented?
(Select all that apply)**



In which of the following areas is your organization concerned about AI-related litigation over the next 12 months? (Select all that apply)



Human resources is emerging as a leading AI use case among employers, selected by 54% of respondents – even as a growing number of state laws [take aim](#) at algorithmic discrimination and the use of AI for [employment-related decisions](#).

State-level compliance requirements for employers are complicated by a divergent federal approach, including the White House’s March 2026 [national policy proposal](#) directing Congress to establish a federal standard and to preempt “state AI laws that impose undue burdens.” The implication of the White House proposal is that AI-based activity should not face the same level of scrutiny for bias as human-driven activity does. At the same time, the apparent state-level shift away from a more-balanced apportionment of AI responsibility and liability between AI vendors and employers suggests an increase in burden on employers using AI technology.

With respondents noting AI use across various areas of their organizations, it’s encouraging that the majority (68%) report having implemented a formal policy governing AI use in the workplace. This is a meaningful advance from Littler’s 2025 Employer Survey when only 38% of employers said they had a specific policy to address employee AI use and another 13% had developed guidelines (see page 15 [here](#)). Yet there remains substantial room for improvement. Only about 55% of respondents to

this year's survey have a formal review or approval process for AI tools or use cases, or restrictions on what information may be entered into such tools. Thirteen percent have not implemented any measures at all.

Fewer than half have put in place several other key AI governance measures, including having a designated committee responsible for AI oversight (45%), due diligence procedures for evaluating third-party AI vendors (45%), tool-specific employee training on approved AI applications (43%), and limitations on AI use for certain functions or decisions (41%). Notably, only a quarter of organizations say they have risk-based training for employees to address legal, compliance or ethical considerations.

Though large employers score better than their peers on this front – nearly 8 in 10 (79%) have a formal AI policy in place, 70% have a formal review process for AI tools, and 54% have a designated oversight committee – these findings suggest that many employers could have material exposure to legal and operational risks tied to AI use. While AI policies are crucial, such guidance may not be sufficient to protect organizations from risk in the absence of effective training and oversight.

On the legal front, 79% of respondents are concerned about AI-related litigation. The leading cause for concern: data privacy relating to employee or candidate data and AI-evaluated video images, cited by nearly half (49%) of all respondents. Forty-five percent identify discrimination or bias, followed by state or local AI-specific statutes or regulations (43%).

Other litigation worries include recordkeeping, documentation or explainability requirements (35%) – likely due to anticipated challenges in demonstrating how AI-assisted decisions were reached – as well as wrongful termination or workplace displacement (15%). The latter area could likely become more of a headache for employers as organizations move to reduce staff after reevaluating AI's impact on roles and workflow, and as labor unions increasingly focus on AI as a factor in bargaining negotiations.

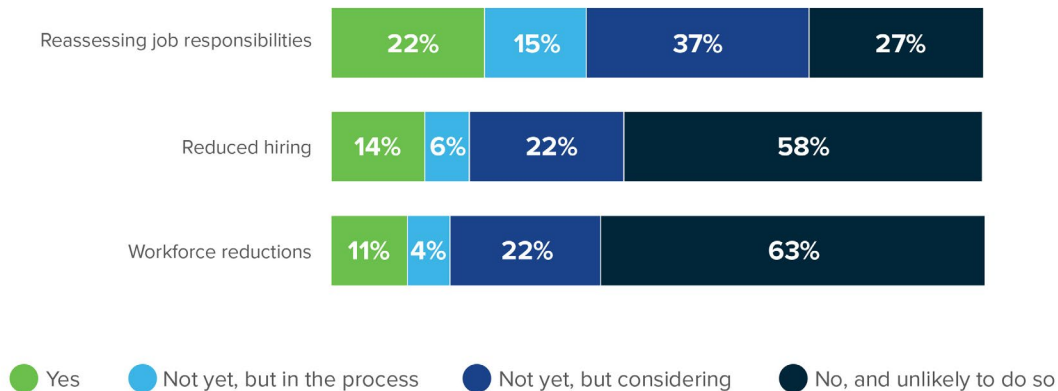
These developments come as AI continues to gain traction across U.S. workplaces, in HR and beyond. More than half of respondents report their organizations use AI in IT/cybersecurity (54%) and in marketing, sales and communications (52%). Other popular areas include legal and compliance (48%), operations (47%), and customer service or client support (44%). This cross-functional adoption suggests organizations increasingly see AI as a business imperative despite the complex and evolving compliance landscape.

“AI adoption is moving quickly, but governance is still playing catch-up. That mismatch could leave employers vulnerable to significant risk, especially given the complexity around compliance. Between an increasingly active patchwork of state laws and unresolved liability questions in light of new federal policy proposals, employers will likely remain on the hook for how these tools are used. AI policies should reflect how the tools are actually used by their workforces, and implementing meaningful training helps lessen the risk that AI integration will deepen litigation exposure.”

[Niloy Ray](#),
co-chair of Littler's [AI and Technology Practice Group](#)



Has your organization taken any of the following actions as a result of the actual, or anticipated, increased use of AI in the workplace?



The consequences of widespread AI adoption are rippling across the workforce, prompting employers to reevaluate existing and future staffing needs in light of expected AI-driven efficiency and productivity gains.

Nearly 4 in 10 respondents (37%) say that, as a result of actual or anticipated AI use, their organizations have either reassessed job responsibilities (22%) or are in the process of doing so (15%), with another 37% considering it. Assessments could include shifting routine tasks to AI tools, identifying new skills needed for AI-integrated workplaces, and adjusting workflows and reporting structures.

Taken together, these actions may represent an early stage of full-fledged workforce transformation – one likely to be followed by changes in hiring, redeployment or layoffs. So, it tracks that 1 in 5 organizations (20%) report they have either reduced hiring (14%) or are in the process of doing so (6%), while 22% are considering it. Workforce reductions are somewhat less common, at least for now: 15% of respondents say they have either reduced their workforce (11%) or are in the process of reductions (4%), with 22% considering them.

Large employers are further along in making changes due to AI integration. Nearly 3 in 10 (29%) have already reassessed job responsibilities, while 17% have reduced hiring and 17% have undertaken workforce reductions.

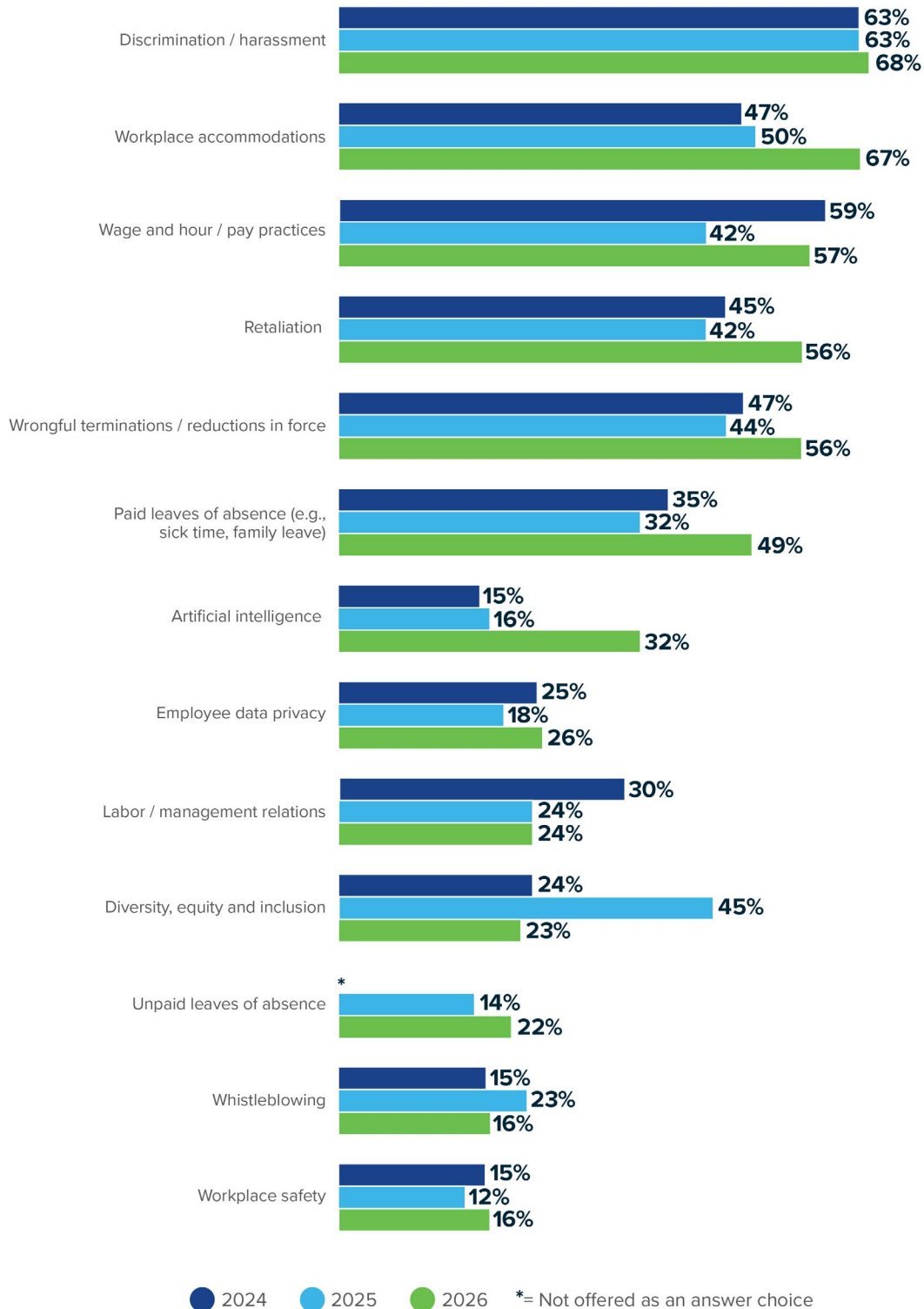
“AI is opening new frontiers, redefining job responsibilities, changing the way we hire, and modifying staffing patterns. These changes will only multiply in frequency and impact as time passes, making our ability to work with AI a critical part of working more effectively. Meeting the moment requires understanding and adapting to a new legal environment, with the right combination of technical knowledge, business judgment around the use of new tools, and focus on compliance. The old way of doing things is no longer good enough.”

[Marko Mrkonich](#),
co-chair of Littler’s AI and Technology Practice Group

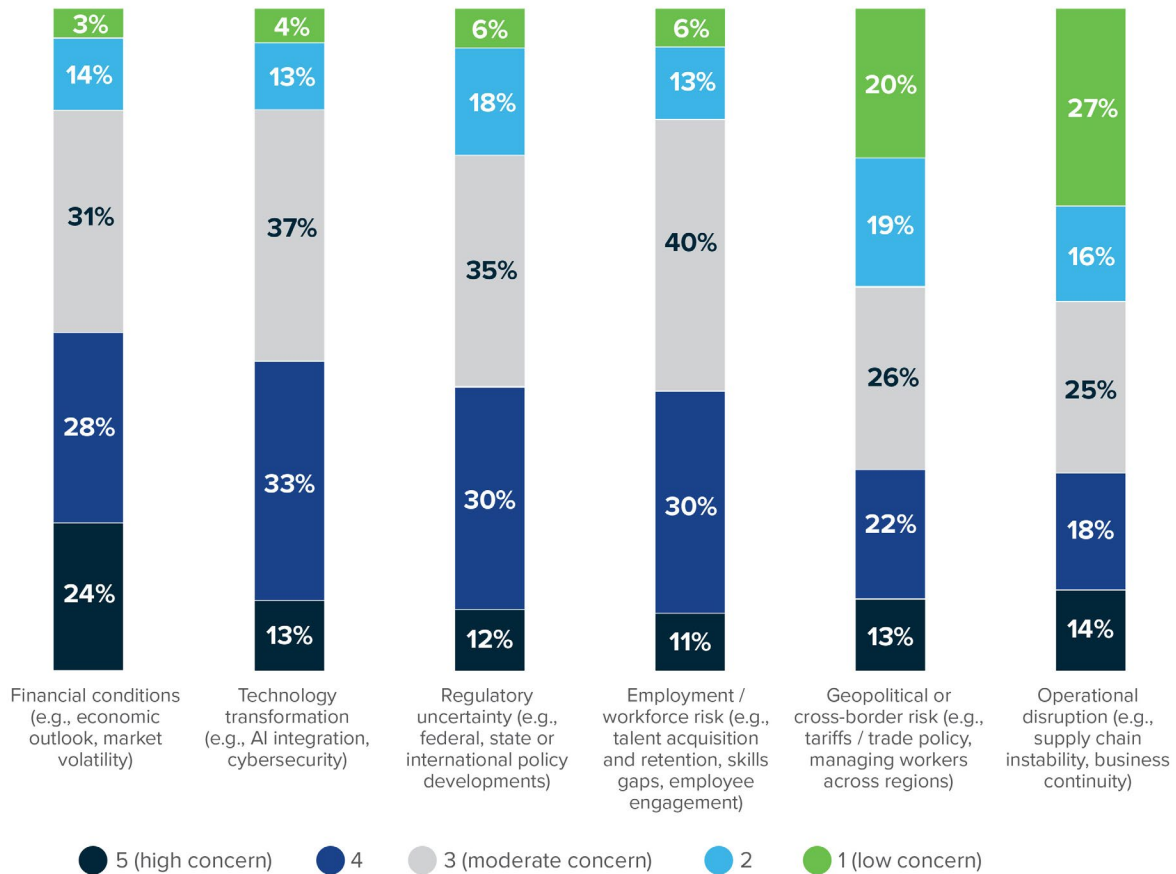


WORKPLACE LITIGATION AND MANAGEMENT

In which of the following areas is your organization concerned about employment-related litigation over the next 12 months? (Select all that apply)



To what extent are the following issues of concern for your organization’s board or leadership in the context of workplace/workforce management?



As the first year of the second Trump administration brought significant regulatory volatility across a number of areas impacting the workplace, it brought corresponding hurdles for organizations trying to assess litigation risk in an unpredictable environment. Disruptions at the [federal level](#), including uncertainty around agency enforcement, have coincided with a growing [patchwork of state and local regulation](#). At the same time, the rapid [adoption of AI in workplaces](#) continues to outpace clear legal frameworks.

It’s unsurprising, then, that more employers are anticipating litigation risk across a wide range of issues over the next 12 months, from workplace discrimination and accommodation requests to AI and employee data privacy. In fact, in 10 of the 13 areas queried, the share of respondents reporting concern increased year-over-year – in contrast to findings from Littler’s 2025 report, which saw declines in several areas.

Among the most notable shifts came in the area of workplace accommodation requests, which saw a 17 percentage-point increase in employers concerned about employment-related litigation over the next year (67% expressed concern this year, compared with 50% in the 2025 report). This is a particular worry for large employers, with 77% bracing for accommodation-related litigation.

The growing concern reflects increased friction as pandemic-era expectations regarding remote work rub up against employers' return-to-office ambitions, as well as the ongoing rise in mental health-related accommodation requests, as explored [later in this report](#). Requests may also be increasing as more employees and healthcare providers tap into online resources related to workplace accommodation rights and utilize generative AI to help draft requests.

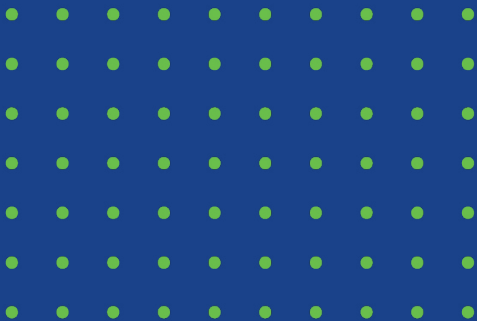
Other major employment-related litigation concern areas include wage and hour/pay practices (57%), retaliation (56%) and wrongful terminations/reductions in force (56%). Nearly half (49%) of employers cite paid leaves of absence – up from 32% in 2025.

Employers are also more focused on AI as a litigation risk than they were previously – understandably, given its rapid adoption and the compliance concerns cited elsewhere in this report. The share of those concerned about AI litigation doubled in 2026, to 32% from 16% the previous year. Relatedly, litigation concern tied to employee data privacy also rose (26% of respondents, compared to 18% in 2025).

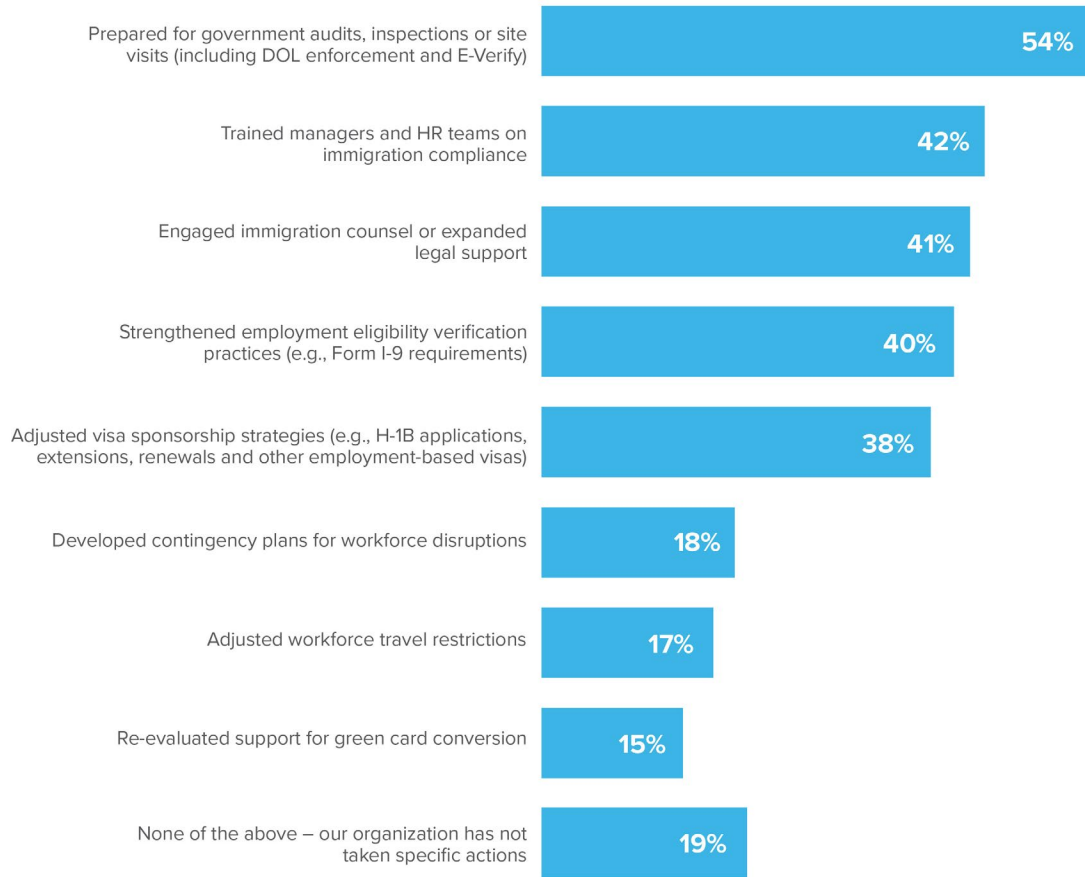
DEI and whistleblowing were the only litigation concern areas that saw declines. DEI fell to 23% from 45% in 2025, representing a return to 2024 levels, likely reflecting an adjustment to the administration's priorities in this area.

The view from the C-suite echoes those concerns to some degree, though leadership and boards are also focused on big-picture issues impacting their workforces. Nearly half of respondents (46%) say technology transformation – issues like AI integration and cybersecurity – is of elevated concern for their organization's board or leadership. Forty-two percent say the same of regulatory uncertainty and 41% cite employment/workforce risk (areas like talent acquisition and retention, skills gaps and employee engagement).

However, the top-ranked concern is financial conditions (52%), reflecting the importance of factors such as the economic outlook and market volatility for organizational leaders.



**Which of the following actions, if any, has your organization taken to address potential workforce staffing impacts related to immigration policy and enforcement over the past year?
(Select all that apply)**



Immigration policy changes were a major workforce concern last year, from increased worksite enforcement to heightened Form I-9 audit activity to ongoing visa processing delays. In the recent WPI [survey](#), 63% of employers – and 75% of those from large organizations – experienced workforce staffing challenges as a result of immigration policy during the first year of the second Trump administration.

The results of this latest survey show that employers – and particularly large employers – are taking proactive steps to address the potential workforce staffing impacts as a result of this new landscape. More than half of all employers (54%) and 69% of large employers have prepared for government audits, inspections or site visits over the past year, the leading answer choice by a substantial margin. For employers in the retail and hospitality industries, the percentage taking action in this area rose to 78%. This comes as recent immigration site visits (audits/raids) illustrate the scale of potential workforce disruption.

Organizations also report taking a range of related precautions: 42% trained managers and HR teams on immigration compliance, while 41% engaged immigration counsel or expanded legal support. Four in 10 (40%) strengthened employment eligibility verification practices and 38% adjusted visa sponsorship strategies.

Across all four measures, large employers were consistently more likely to take action. Roughly half of large employers say they conducted immigration compliance training (54%) and adjusted visa sponsorship strategies (48%) – at least 10 percentage points higher than the overall respondent pool (42% and 38%, respectively) – with notable increases for the other actions as well. That’s understandable, given the more significant implications for large employers and the [rise in scrutiny around Form I-9 forms](#). Among those in the hospitality/retail industries, 70% say their organizations have conducted immigration compliance training.

The 19% of all respondents who report taking no specific actions may reflect those respondents outside of the industries commonly targeted for potential undocumented workers, which include staffing and home care agencies, construction, restaurants and hotels, retail, manufacturing and food processing operations, and agriculture, among others. However, given the administration’s vigorous enforcement posture, it is important for employers in all industries to evaluate their immigration compliance readiness, including developing comprehensive response plans; coordinating across legal, HR and communications functions; and providing targeted training for frontline staff – with the latter becoming increasingly critical as these initial interactions can significantly shape organizational risk when site inspections or audits do occur.

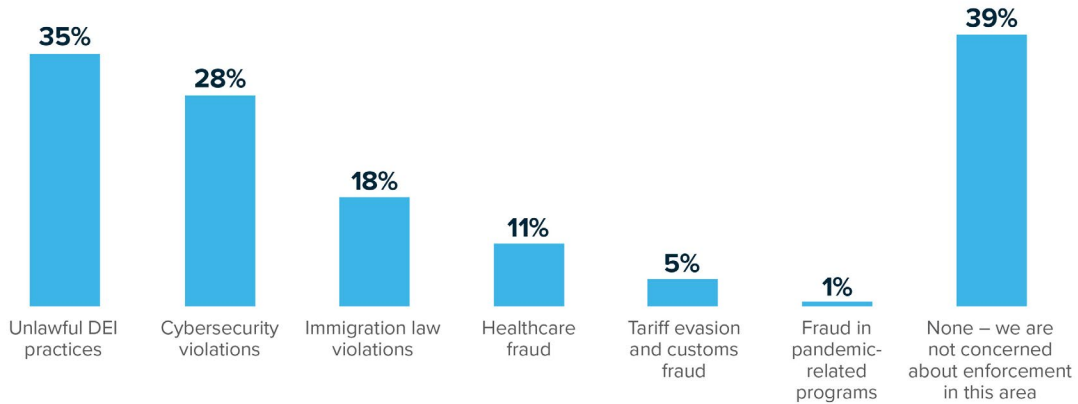


“The rapid pace of change in immigration policy over the past year has created significant challenges for businesses in managing day-to-day operations and staffing. In response, many employers are taking a range of actions to clarify plans and processes and to prepare for worksite enforcement activity. But businesses crave predictability – and the fluid nature of the regulatory environment, along with continued lack of certainty about what the rules will be, makes advance planning increasingly difficult.”

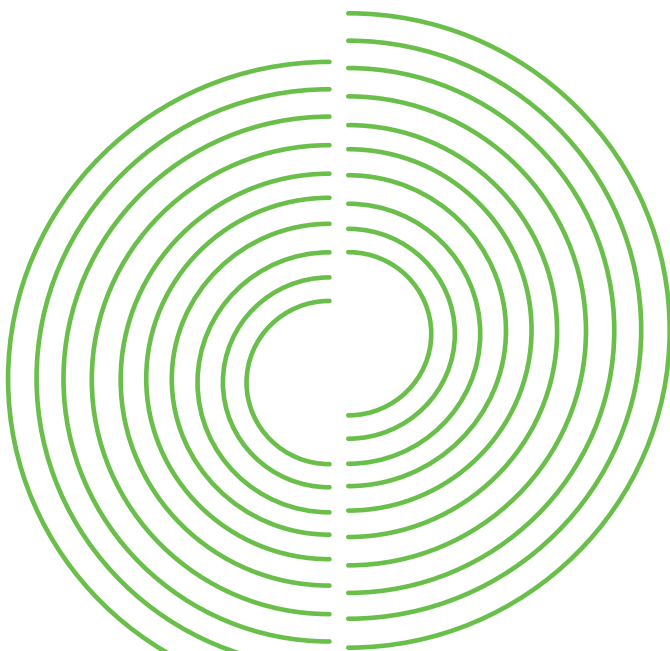
Jorge R. Lopez,
chair of Littler’s [Immigration and Global Mobility Practice Group](#)



**Which of the following False Claims Act (FCA) and whistleblowing-related enforcement priorities from the Department of Justice (DOJ) are a concern for your organization?
(Select all that apply)**



In fiscal year 2025, FCA settlements and judgments [exceeded \\$6.8 billion](#), double what we saw in 2024 and the highest year to date, for a total recovery of \$85 billion since the 1986 statutory amendments that created the modern-day FCA. Of this \$6.8 billion, \$5.3 billion came from qui tam suits filed by individual relators, demonstrating an increasingly aggressive, whistleblower-driven enforcement environment under the second Trump administration. Additionally, the DOJ expanded the scope of its Corporate Whistleblower Program to include [immigration-related violations](#) and other corporate misconduct and is also [using the FCA](#) to probe the use of diversity initiatives by employers that receive federal funding. These shifts may expand exposure for employers in areas not historically associated with FCA risk, highlighting the importance of robust internal reporting mechanisms and other safeguards.

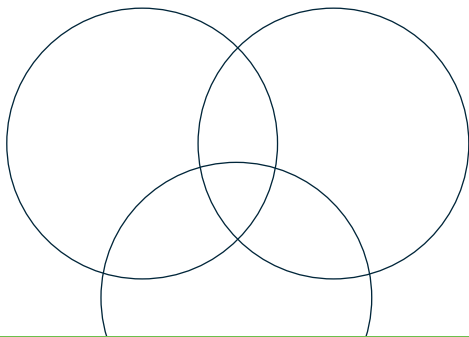


Employers are paying attention. Unlawful DEI practices rank as the leading concern among all respondents as it relates to DOJ enforcement activity (35%) and are a particular worry for large employers (53%). This level of concern is reflective of both media attention to the issue and the high stakes for big companies that may draw greater scrutiny from the administration. Amid the heightened focus, some companies [have been scaling back DEI](#) efforts or changing how they talk about such initiatives. Immigration law violations, which 18% of all respondents and 25% of large employers cite as a concern, may be receiving a similar boost from media visibility and focus of the Trump administration.

Cybersecurity violations are the second-highest area of concern, identified by 28% of all respondents. Cybersecurity enforcement may pose a larger enforcement risk to companies than DEI as this area has steadily intensified across administrations over the past decade, and it also involves higher-value claims, making it a more compelling target for enforcement actions.

Similarly, though only 11% of respondents flag healthcare fraud as a concern, it will no doubt continue to be a top DOJ priority as that area [accounted for about \\$5.7 billion](#) of the DOJ's total 2025 recoveries, and healthcare spending remains one of the government's largest expenditures. Lower reported concern likely reflects limited exposure for those outside the industry, as the share of respondents citing healthcare fraud closely matches the 10% of respondents working in healthcare.

A large share of respondents say they aren't concerned about FCA and whistleblower enforcement (39% overall, though this drops to 29% of large employers). For many respondents, this likely means their company doesn't receive federal funding (including grants) or serve as a government contractor; for others, it may signal a blind spot. Concern was lowest for tax evasion and customs fraud (5%) and pandemic-related program fraud (1%).



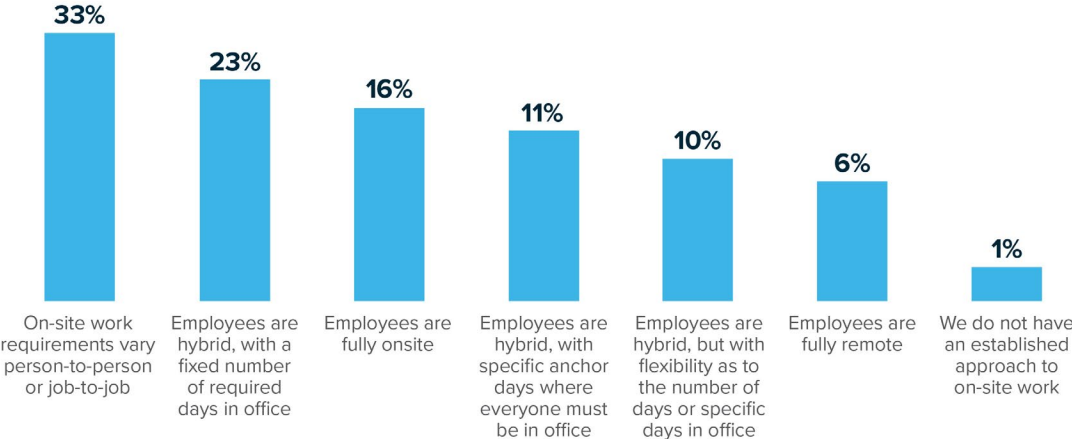
“FCA enforcement is evolving in ways that directly impact not only employers’ government-facing operations, but also day to day management of their workplaces. This year’s survey suggests that while many employers are attuned to the DOJ’s focus on such areas as DEI policies, they may be underestimating risks elsewhere – particularly cybersecurity violations, where growing threats and the potential for large settlements present significant risk across industries.”

**[Meredith Schramm-Strosser](#)
and [Holly Robbins](#),**
co-chairs of Littler’s [Whistleblowing, Compliance
and Investigations Practice Group](#)



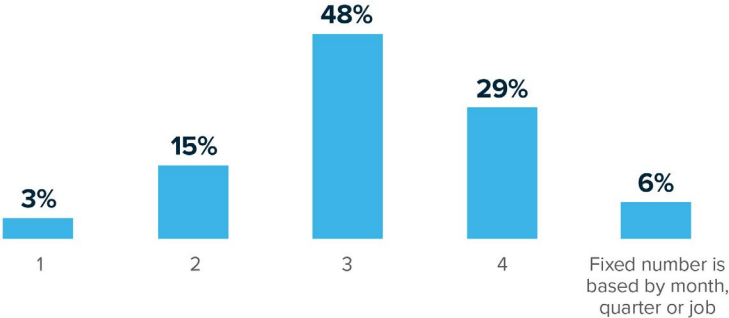
LEAVES, ACCOMMODATIONS AND FLEXIBLE WORK ARRANGEMENTS

Which of the following best represents your organization’s overall approach to on-site work for positions that could be performed remotely?



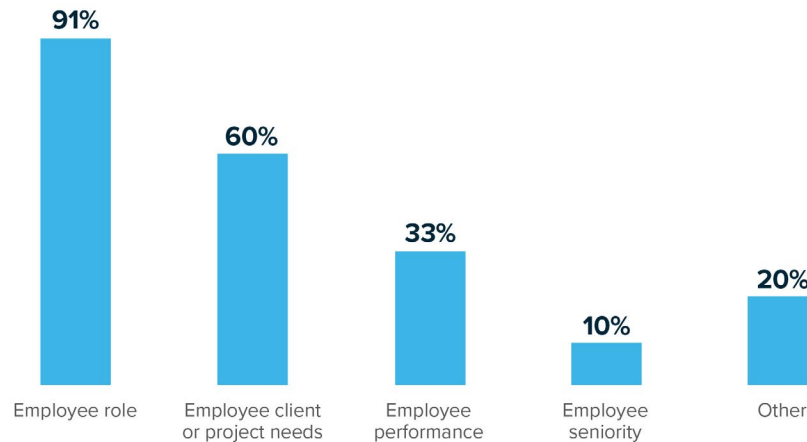
How many days per week do you require employees to be in office?

This question was only posed to those whose organizations take a hybrid approach to on-site work with a fixed number of required days in office.



Which of the following factors are considered when determining on-site work requirements for employees? (Select all that apply)

This question was only posed to those whose organization's on-site work requirements vary person-to-person or job-to-job.

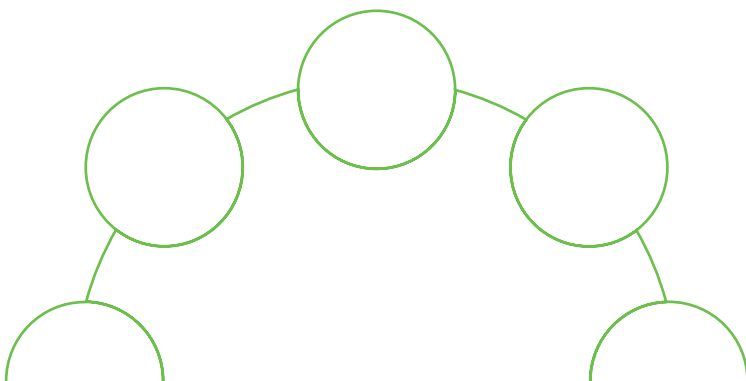


Flexible work arrangements that proliferated during the pandemic have continued to complicate employers' push for a return to more in-office work.

For positions where remote work is possible, most respondents (77%) are providing some type of hybrid work arrangement, including those who say on-site work requirements vary. Only 16% have employees that are fully on site and just 6% have employees that are fully remote. These figures are almost exactly in line with the past three years of data from Littler's surveys, showing that most movement around in-office work in recent years has been within some type of hybrid arrangement.

Nearly half (44%) say their organizations have a hybrid work policy; 23% have a fixed number of required in-office days, 11% have specific anchor days when all staff must be in office, and 10% offer flexibility on the number of days or which specific days are in office. Another 33% note that on-site requirements vary by position or role.

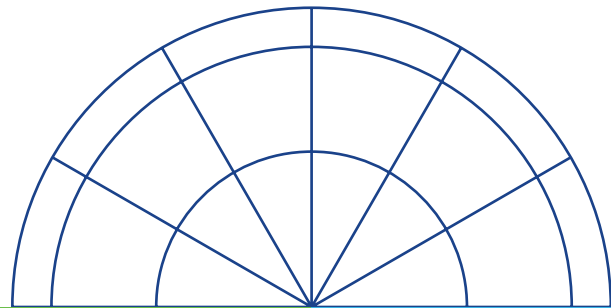
Of organizations that offer hybrid schedules, the largest share (48%) requires employees to be in office three days a week, followed by four days a week (29%). The data shows employers moving away from arrangements with fewer required in-office workdays, as fewer than 1 in 5 (18%) require only one or two days per week. This builds on findings from Littler's 2025 Employer Survey, where 48% of organizations had increased in-office work requirements over the past 12 months or were considering doing so (see page 17 [here](#)).



For those organizations where on-site requirements vary by person or job, decisions regarding who is permitted to work remotely are largely driven by employee role (91%), followed by employee client or project needs (60%). This is relevant because minimizing litigation risk requires a defensible business rationale, with differences in hybrid schedules more effectively justified by the essential functions and operational requirements of a given role – versus potentially subjective criteria like employee performance or manager preferences.

During the survey period, the EEOC issued [guidance](#) for federal-sector workers, which offers insight for private-sector employers dealing with return-to-office protocols. The Commission reinforced that employees seeking alternative work arrangements are not entitled to the accommodation of their choice – and that employers may revisit previously granted remote working arrangements when circumstances change.

Also worth noting: this data reflects organization-wide policies around work schedules. As employers seek more structured in-office work policies, they often see a corresponding rise in requests for individualized arrangements, many of which may be for personal reasons. For remote work or other accommodation requests that relate to a legally binding obligation, employers must address these requests in compliance with the Americans with Disabilities Act, Pregnant Workers Fairness Act and/or similar state or local laws.

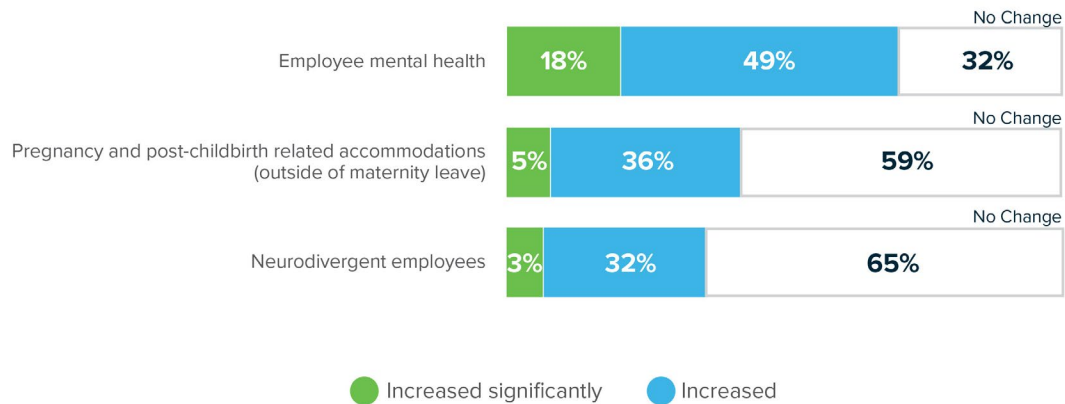


“In managing remote work requests, many employers are finding that the challenge is not just the volume of requests, but how those requests are handled at the frontline manager level. As employees continue to have high expectations around the feasibility and availability of remote work – and amid increased concern about accommodation-related litigation – it is increasingly important for businesses to have consistent processes in place for evaluating and granting such requests on a truly individualized, case-by-case basis, and that supervisors and managers know how to access that process.”

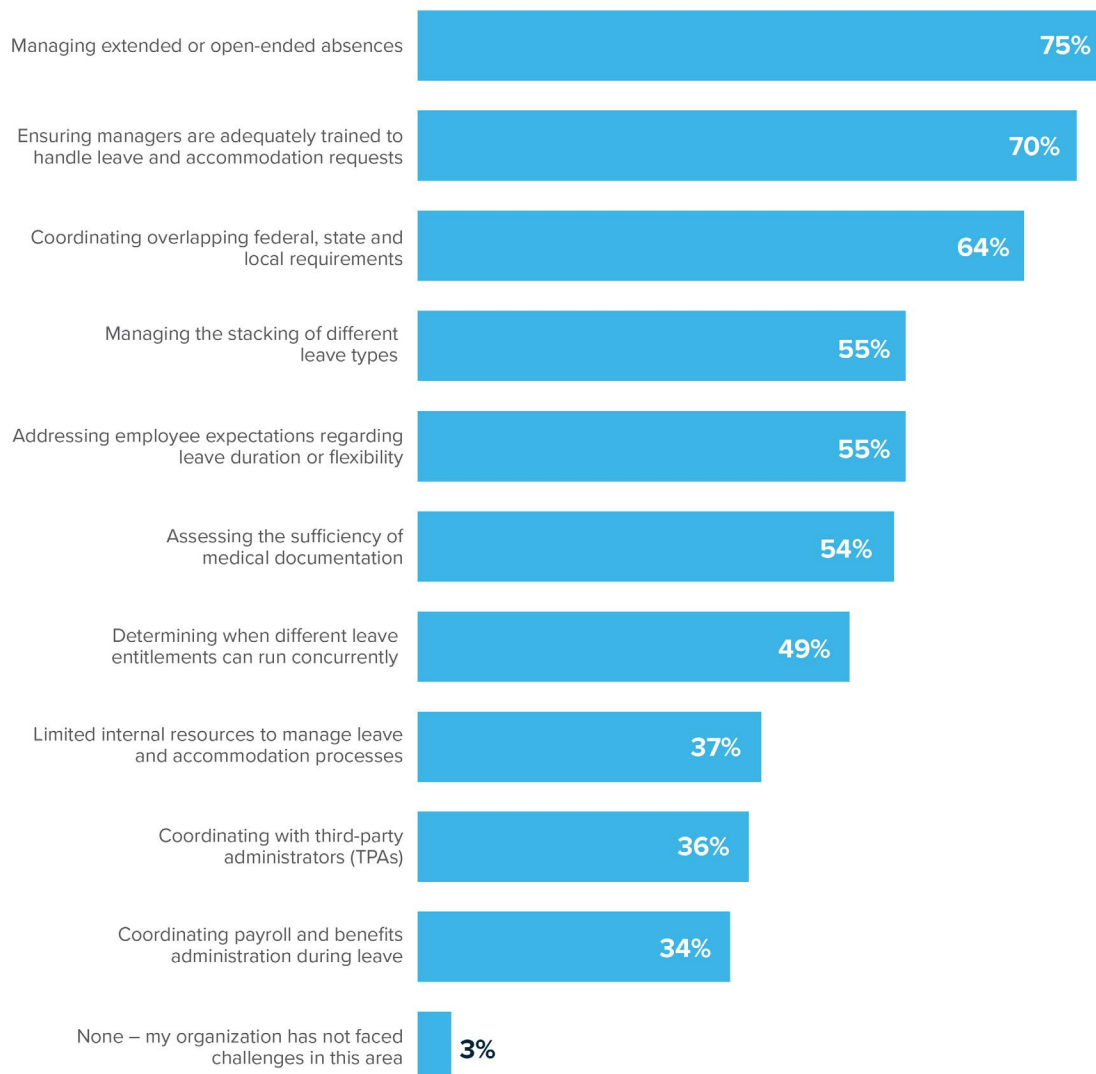
[Alexis C. Knapp](#),
co-chair of Littler’s [Leave and
Accommodation Practice Group](#)



To what extent has the volume of leaves of absence and accommodation requests received by your organization in the following areas changed over the past year?



Which of the following challenges has your organization faced when administering leaves of absence and accommodation requests over the past year? (Select all that apply)

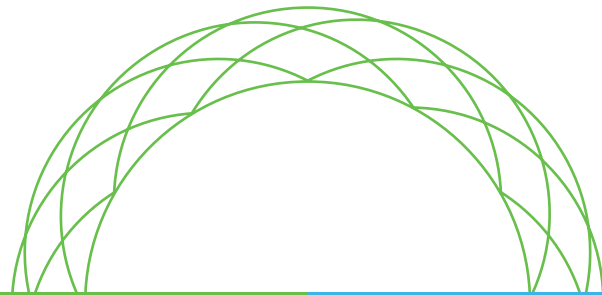


Mental health in the workplace continues to be a growing concern for employers and employees alike. Over the past year, 67% of employers experienced increases in the volume of mental health-related leaves of absence and accommodation requests – and that figure rises to 74% for large employers. This follows two years of survey data in which employers reported a similar increase in the amount of leave and accommodation requests related to mental health conditions – 70% in Littler’s 2023 Employer Survey and 74% in the 2024 report (see page 20 [here](#)).

A notable share of respondents also reports an increase in requests related to pregnancy and post-childbirth related accommodations outside of maternity leave (41%) and accommodations for neurodivergent employees (35%).

When it comes to administering leaves of absence and accommodation requests, managing extended or open-ended absences is the most significant hurdle that employers identify, with 75% saying it was a challenge over the past year. Related issues include managing the stacking of different leave types (55%), addressing employee expectations regarding leave duration or flexibility (55%), and determining when different leave entitlements can run concurrently (49%). Extended and intermittent leaves have long been a challenge for employers, and the survey results indicate they will remain so.

Employers’ second most common challenge in administering leave and accommodation requests is ensuring that managers are adequately trained to handle them (70%). Organizations are increasingly recognizing that policies and HR support alone are not sufficient if frontline managers do not understand leave and accommodation obligations.



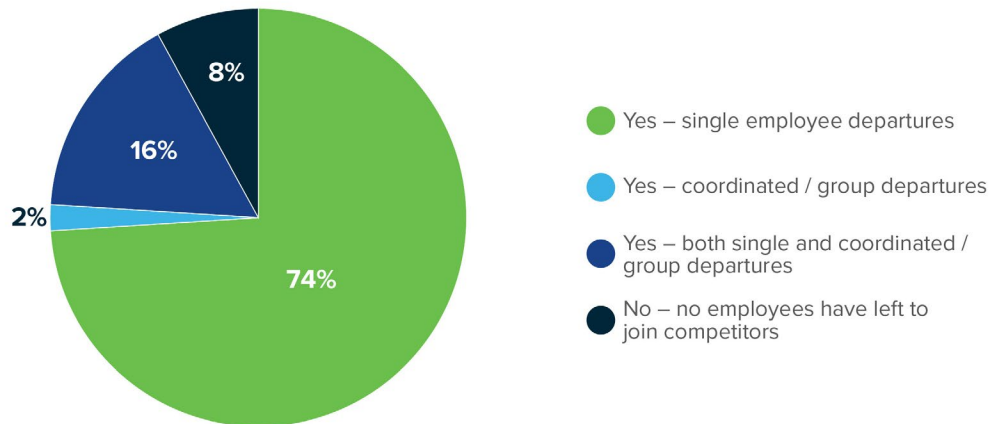
“Many employers are seeing not only a high volume of leave and accommodation requests with a mental health component but continued increases on top of the elevated levels of the past few years. Leaves and accommodations are among the most challenging workplace requests to administer, and the added complexity of mental health-related requests has only heightened the stakes. Given this complexity, it’s encouraging that most employers are focusing on manager training as a critical step in effectively managing requests and minimizing litigation risk.”

Jeff Nowak,
co-chair of Littler’s Leave and
Accommodation Practice Group



UNFAIR COMPETITION AND TRADE SECRETS

Over the past 12 months, have any of your employees departed to competitors?



Employers are facing an increasingly complex landscape when it comes to employee mobility and trade secrets. While the Federal Trade Commission (FTC) in September 2025 withdrew its defense of a noncompete ban adopted under the previous administration, federal regulators affirmed their commitment to “addressing harmful labor market conduct through [case-by-case enforcement](#)” against companies that [misuse noncompete agreements](#). Meanwhile, states continue to advance a range of laws, some [tightening limits](#) on noncompete agreements or implementing [sector-specific reforms](#), even while Florida last year enacted legislation creating the strongest employer-friendly noncompete protections in the country.

Taken together, the fragmented state-level regulatory environment and the FTC’s focus on individualized review have heightened the importance of how employers respond when employees depart for competitors – particularly when trade secrets are at issue.

With 92% of employers reporting employee departures to competitors in the past 12 months, this is clearly a pressing concern. Nearly three-quarters (74%) say single-employee departures occurred, while 16% report both single and coordinated/group departures (another 2% experienced only coordinated/group departures).

In connection with employee departures to competitors, which of the following, if any, occurred? (Select all that apply)

This question was only posed to those whose organizations have had employees depart to competitors.

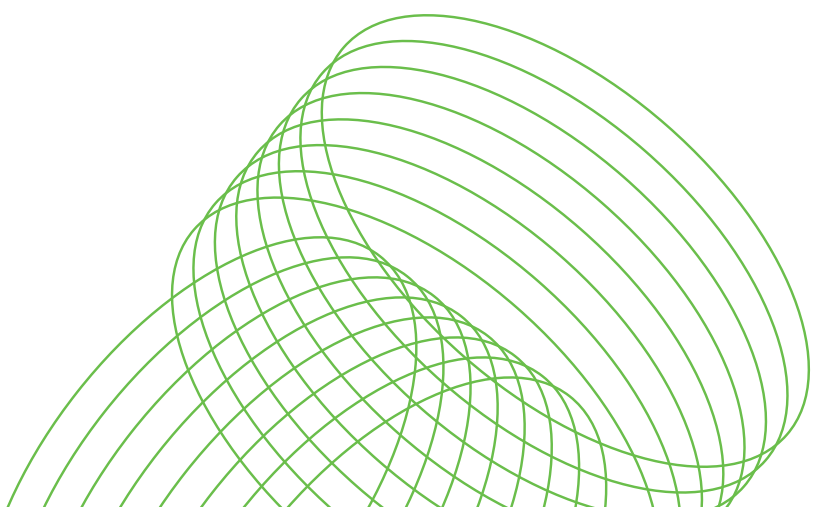
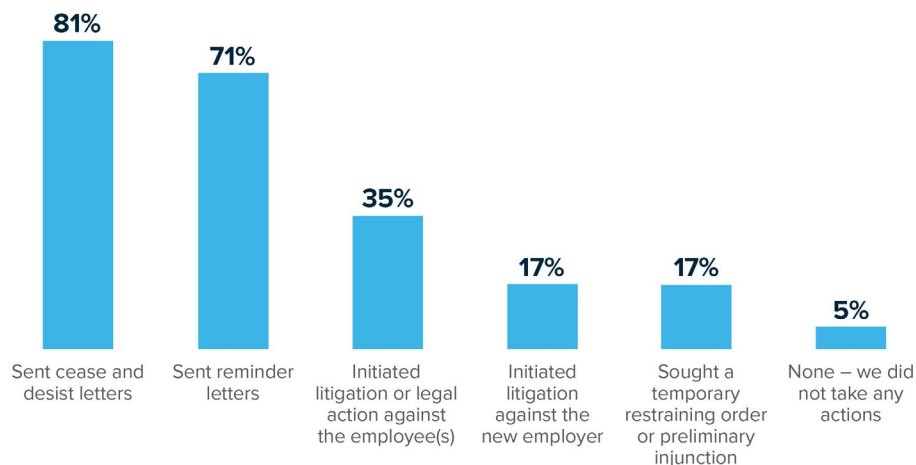


Concerningly, those respondents whose employees left for competitors say some type of restrictive covenant and confidential information violation occurred more than half the time (55%). Thirty-seven percent say those exits involved copying, downloading or removing confidential information prior to departure; 33% cite violation of contractual non-solicit obligations; 26% report violations of contractual non-compete obligations; and 23% reference violations of contractual non-disclosure or confidentiality obligations. In some instances, violations may occur without the employer’s knowledge, particularly when employees inadvertently retain confidential information – but that does not mean the information will not be used.

While only 2% of that group cite use of AI tools to access, extract or transfer confidential information prior to departure, use of AI is likely greater than employers are aware, and this may increase significantly as AI adoption spreads. Employers should consider strengthening monitoring systems to account for AI-enabled access or transfer of confidential information, in addition to focusing on more traditional routes such as sharing via email or transfers to cloud accounts. To address these risks, organizations should review confidentiality and computer-use policies on enterprise AI platforms and limit an employee’s ability to delete search histories.

**Did your organization respond with any of the following in response to the departure(s)?
(Select all that apply)**

This question was only posed to those whose organizations have had employees depart to competitors and where some type of restrictive covenant or confidential information violation occurred.



When employees leave for competitors and violate restrictive covenants or misuse confidential information, organizations are responding assertively: 95% took some sort of action, with the most common being to send a cease-and-desist letter (81%) or a reminder letter (71%). Notably, employers are initiating litigation or legal action against the departing employee more than a third of the time (35%). This willingness to go to court shows that companies are taking the misconduct – and the resulting threat to their business – seriously, particularly given the high cost of litigation. Our survey results also suggest that employers increasingly view litigation as viable.

Employers reporting coordinated or group departures responded more robustly to group exits, with more than half (51%) initiating litigation or legal action against employees (compared with 35% of all respondents) – showcasing the significant impact group exits can have on a business.

“We’re seeing a more competitive environment when it comes to employee mobility, with employees and competitors testing boundaries on noncompete agreements and use of confidential information. Employers are responding aggressively, including with litigation, when they believe their business interests are at risk. Between the fragmented regulatory landscape and emerging risks, such as the use of AI tools to transfer proprietary information, it’s critical that employers stay attuned to evolving practices and focus on tailored agreements and practical steps to protect their proprietary information, goodwill and workforce stability.”

[Melissa L. McDonagh](#),
co-chair of Littler’s [Unfair Competition](#)
and [Trade Secrets Practice Group](#)



“Group lift-outs remain a top concern for C-suite leaders, driven not only by talent loss but also by the trade secret removal and non-solicitation violations that often follow. Long common in industries like insurance and financial services, such exits are increasingly happening in highly competitive areas like AI and technology. Businesses can proactively prepare for these risks by strengthening employment agreements, monitoring for early warning signs of group departures, and strengthening incentives to deter coordinated exits.”

[James M. Witz](#),
co-chair of Littler’s [Unfair Competition](#)
and [Trade Secrets Practice Group](#)



Methodology and Demographic Profile of Respondents

In March 2026, 303 professionals from a variety of industries completed The Littler® Annual Employer Survey via an online survey tool.

Respondents were based across the U.S. and included:

- Chief Legal Officers, General Counsel or Deputy General Counsel (22%)
- In-House Lawyers (40%)
- Chief Human Resources Officers or Chief People Officers (15%)
- HR Professionals (19%)
- Other C-suite or management titles (4%)

Companies represented were of a variety of sizes:

- More than 10,000 employees (41%)
- 5,001 to 10,000 employees (14%)
- 1,001 to 5,000 employees (23%)
- 501 to 1,000 employees (6%)
- 101 to 500 employees (11%)
- 1 to 100 employees (5%)

Responses to some questions in the survey do not add up to 100% due to rounding, and some exceed 100% because respondents were invited to select more than one answer.

