

Littler<sup>®</sup>



MAY 2024

# The Littler<sup>®</sup> Annual Employer Survey Report

## Executive Summary

2024 promises to be a consequential year for employers. The U.S. is preparing for an election that will likely have a significant impact on the future of employment and labor law. At the same time, businesses continue to wrestle with cultural changes stemming from the pandemic and are confronting newer challenges such as the disruptive impact of artificial intelligence (AI). All in all, employers are facing change and uncertainty across a number of key workplace issues.

At this critical moment, Littler surveyed more than 400 in-house lawyers, business executives and human resources (HR) professionals—36% of whom hold C-suite positions at their organizations. Respondents are based across the U.S. and represent a range of company sizes and industries, including technology, manufacturing, retail, healthcare and hospitality. The survey's findings reveal how employer expectations and workplace policies are adapting to this complex and continually evolving landscape.

### EMPLOYMENT LAW: MORE ENFORCEMENT, BUT FEWER CHANGES EXPECTED

With lawmakers preoccupied by the upcoming presidential and congressional elections, U.S. employers are anticipating fewer impactful changes to key areas of employment law over the next year. For instance, the share of respondents expecting shifts in paid sick time and family leave requirements dropped notably, to 58% in 2024 from 71% in 2023. AI was the exception: Expectations of employment law-related changes in this divisive and fast-moving area jumped to 51% this year, from just 20% in 2023, as both state and federal lawmakers look to impose guardrails on the nascent technology.

At the same time, as the Biden administration's labor-friendly policy agenda matures, employers are expecting increased enforcement of existing employment laws. Nearly eight in 10 respondents say they expect a moderate (64%) or significant (15%) impact from the U.S. Department of Labor (DOL) over the next 12 months, compared to 65% who said the same earlier in the administration, in 2022. The National Labor Relations Board (NLRB) remains an area of particular concern among employers following recent changes to the Board's rules, with 73% anticipating a moderate or significant impact in the year ahead, compared with just 43% in 2022.

Against this backdrop, many employers appear eager to see the U.S. Supreme Court overturn or limit the *Chevron* deference doctrine, which gives federal agencies more latitude to interpret legal statutes. Indeed, 78% of respondents agree to some extent that federal agencies' influence in the interpretation of employment and labor laws creates challenges for employers.

### AI IN HR: SOME EMPLOYERS FORGING AHEAD DESPITE CONCERNS ABOUT LEGAL RISKS

As generative AI continues to attract both interest and scrutiny across the business world, employers are split in terms of their adoption of such tools for HR functions: 51% of respondents say their organizations do not use them, while 49% do in some form. For those that have leveraged generative AI in HR and talent acquisition, the most popular applications include the creation of HR-related materials (26%) and self-service chatbots for internal questions about policy or procedures (24%).

Yet even those who deploy both predictive and generative AI tools in HR processes have reservations about the risks they present. Nearly three-quarters of respondents are moderately (41%) or very (30%) concerned about the challenges of complying with data protection and information security laws at the state, federal and/or international levels. This is particularly true for respondents from large organizations—81% of whom are moderately or very concerned about data protection compliance—likely due to the more complex compliance landscape large multinationals face following the passage of the EU's AI Act.

Despite predictions about AI's transformative impact on the workforce, most respondents (88%) are only slightly or not at all concerned about corresponding job displacement, suggesting they see AI in its current form as a tool to supplement—rather than replace—human work. Nevertheless, the impact of AI-related job displacement is likely to become more of a reality in the near future, necessitating greater efforts to upskill employees.

## EMPLOYERS STILL RECALIBRATING WORKPLACE POLICIES AFTER PANDEMIC-ERA UPHEAVAL

With new policies often lagging one to two years behind major shifts in workplace dynamics, employers continue to grapple with the lasting cultural changes spurred by the pandemic. For example, 74% of respondents report an increase in employee requests for leaves of absence or accommodations for mental health-related issues over the last year, reflecting employees' increased willingness to disclose psychological conditions following the pandemic. That share is even higher—86%—among those from large organizations with more than 10,000 employees. However, just 22% of overall respondents say they have changed their related accommodation or leave policies.

Additionally, while 71% say their organizations operate under some form of a hybrid work schedule (the same proportion as last year's survey), there was a notable shift toward more days spent working in person than remotely. With employers focused on bringing employees back into the office—even if it is for only part of the week—75% say they are tracking in-office attendance, with the largest share (51%) tracking badge swipes when an employee enters the building. Even among the 25% of employers who say they are not tracking in-office attendance, many may have access to that data and could feasibly rely on this information to review employee attendance at a later date.

Employers are also increasingly focused on addressing pay equity issues within their organizations. This shift comes as employees feel more empowered to ask for compensation-related information and as increased adoption of inclusion, equity and diversity (IE&D) initiatives has heightened scrutiny around pay disparities. The vast majority of respondents (93%) say their organizations have taken at least one step to address pay equity, a significant increase compared to just 63% who said the same five years ago.

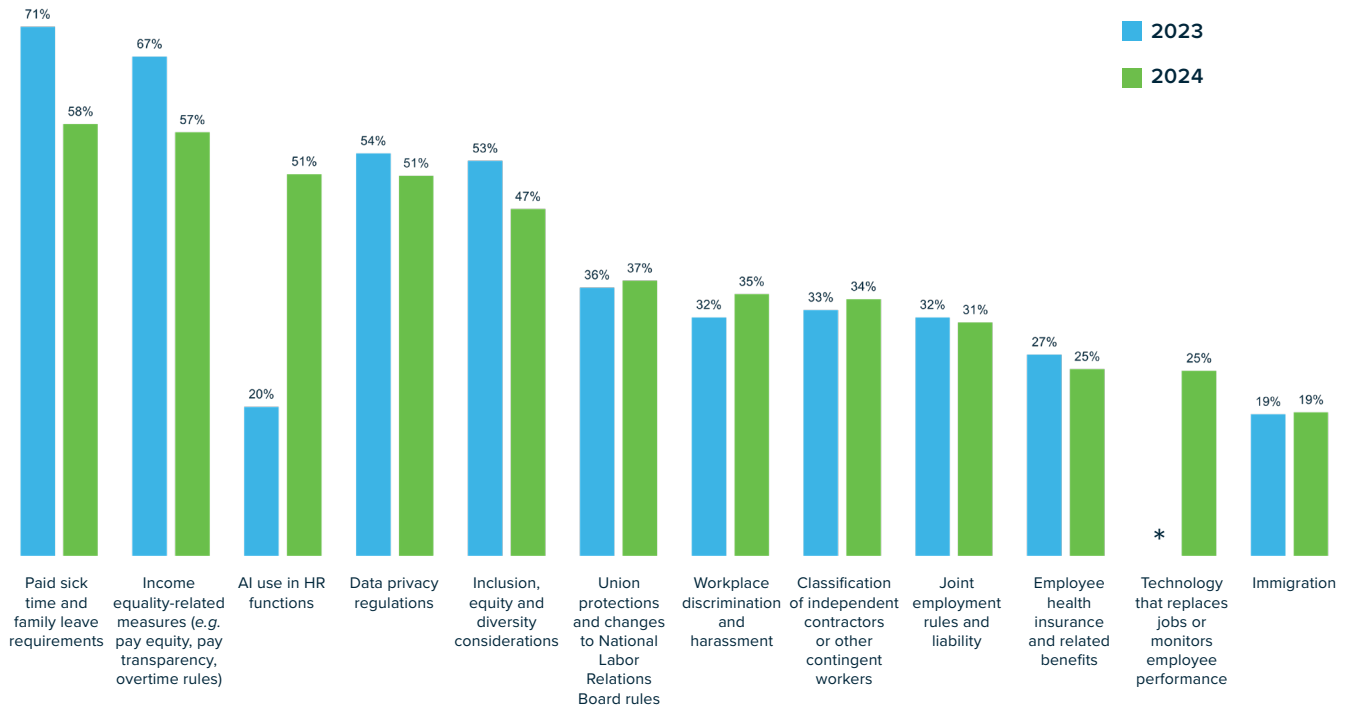
In what follows, we'll explore these and other timely issues facing employers in the year ahead, including rising concerns around employment-related litigation, managing divisive political beliefs in the workplace in an election year, the impact of efforts to restrict non-compete agreements, and uncertainty surrounding corporate IE&D initiatives.

*Responses to some questions do not add up to 100% due to rounding, and some exceed 100% because respondents were invited to select more than one answer. For the full survey [methodology and a breakdown of respondent demographics](#), see page 30.*

*Disclaimer: 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.*

## Workplace Regulation and the 2024 Election

In which of the following areas do you expect employment law-related changes that will impact your business over the next 12 months? (Select all that apply)



\* This answer choice was not provided in the 2023 survey

With 2024 a major election year, U.S. employers appear to be expecting fewer impactful changes to key areas of employment law, likely reflecting a slower pace of legislation and lawmakers’ reticence to take bipartisan action in a divided Congress while their parties are campaigning.

The share of respondents expecting shifts in paid sick time and family leave requirements dropped notably, for example, to 58% in 2024 from 71% in 2023. Similarly, 57% say they expect to see new income equality measures impacting their organizations, 10 percentage points lower than last year.

One major exception is for laws governing [AI use in HR functions](#). More than half of respondents (51%) expect to see impactful changes in this area—far exceeding the 20% who said the same in 2023. That figure rises to 66% for respondents from large organizations and 65% for technology industry respondents. While the U.S. currently lacks an AI framework akin to the European Union’s [AI Act](#), there has been increasing [regulatory activity](#) to address AI use in the workplace.

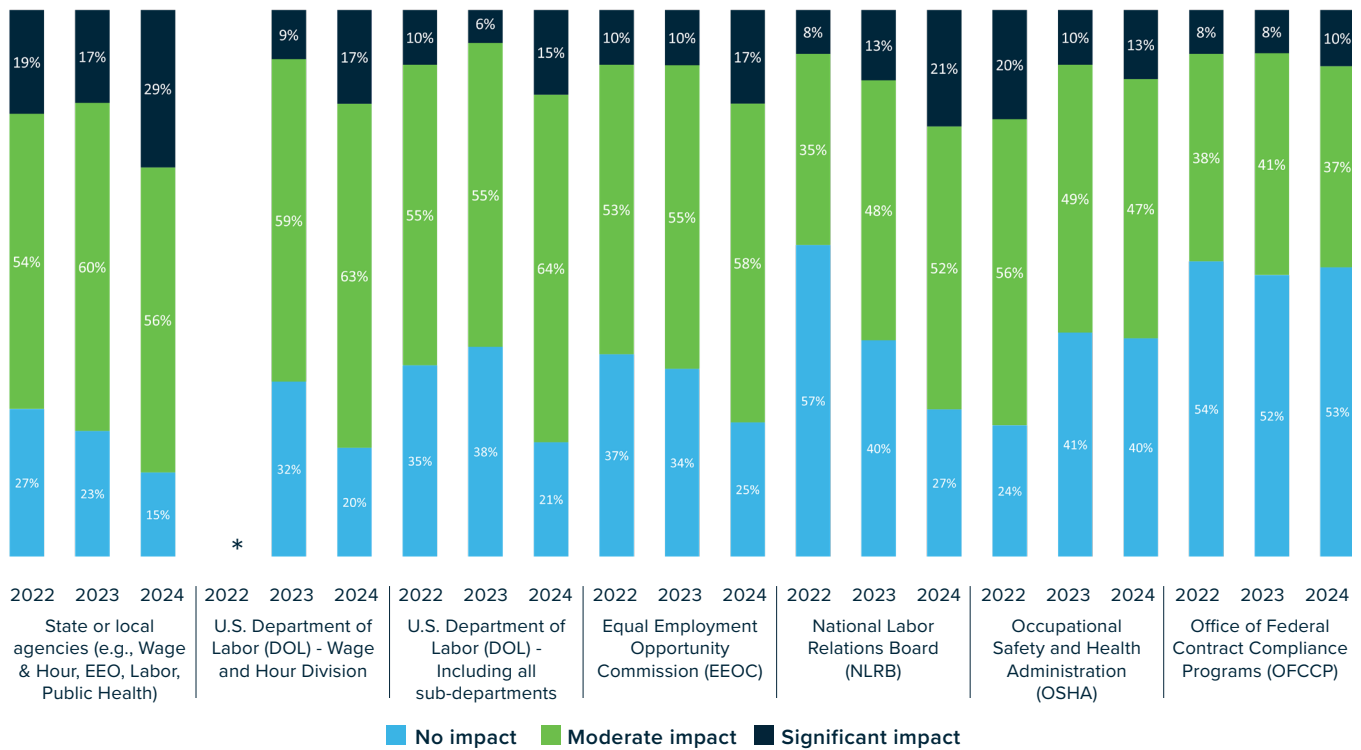
At the federal level, no clear path has emerged for comprehensive AI legislation in the U.S. Congress, though President Biden’s [executive order](#), released in October 2023, directed federal agencies to develop a series of AI principles and best practices. There has been more activity to pass or propose legislation regulating AI at the state and local levels, largely focusing on AI’s use in the hiring process.

While expectations of employment law changes were relatively flat for other areas, interesting differences emerged among subsets of respondents. For instance, the data reveals a greater focus on union protections and changes to NLRB rules among large organizations (52%), retail and hospitality industry respondents (57%), and manufacturing industry respondents (65%). For those whose workforces include unionized employees, 63% are expecting changes to union protections and NLRB rules to impact their businesses.

Data-privacy regulations also remained a key concern of 51% of respondents overall this year, particularly for C-suite executives (59%) and technology industry respondents (70%).

Amid continued legislative activity at the state and local levels, paid sick time and family leave requirements again featured as the area where respondents most expect employment law-related changes to impact their businesses, even if expectations were down compared to 2023. Concern was even higher among respondents in manufacturing (70%) and retail/hospitality (67%), given that many employees in these sectors cannot work remotely when they are sick or need to attend to family issues.

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?



\* This answer choice was not provided in the 2022 survey

While companies may expect fewer employment law-related changes over the coming year, regulatory enforcement and compliance with existing requirements continues to loom large.

Over the past four years, the Biden administration has enacted a more labor-friendly policy agenda than the previous administration—and the share of respondents predicting an impact from compliance and enforcement efforts at key departments and agencies has increased compared to previous years. In fact, nearly eight in 10 respondents say they expect a moderate (64%) or significant (15%) impact from the DOL over the next 12 months, compared to 65% who said the same earlier in the administration, in 2022.

In addition, the share of respondents expecting a significant impact from compliance requirements and enforcement by the DOL Wage and Hour Division has nearly doubled over the last year, to 17% this year from 9% in 2023. This likely reflects changes from the Division that will place heavy compliance burdens on a large share of employers, such as the recently finalized rules impacting [independent contractor classification](#) and raising the minimum salary threshold for [overtime eligibility](#).

Notably, the NLRB remains an area of growing and widespread concern among employers following recent changes to the Board’s [union-organizing rules](#) and standards for [evaluating workplace rules](#), among others. Approximately three-quarters of respondents predict a moderate (52%) or significant (21%) impact over the coming year, compared to just 43% anticipating an impact in 2022, when NLRB General Counsel Jennifer Abruzzo was early in her tenure. Among large organizations, 30% expect a significant impact from enforcement by the NLRB and compliance with its requirements. While concern is higher among those

whose workforces include unionized employees (with 90% expecting a moderate or significant impact), the rise in focus on NLRB activity is likely also driven by increased awareness among employers that the Board's reach extends beyond unionized companies.

Employers are also continuing to focus on activity from state and local agencies. Nearly three in 10 (29%) are bracing for a significant impact as states with Democratic legislatures and governors—such as California, New York and Illinois—advance stricter requirements around issues like paid leave and minimum wage increases that have failed to gain traction at the federal level. Such shifts are proceeding apace and are less likely to be disrupted by the outcome of the 2024 election than federal rulemakings.

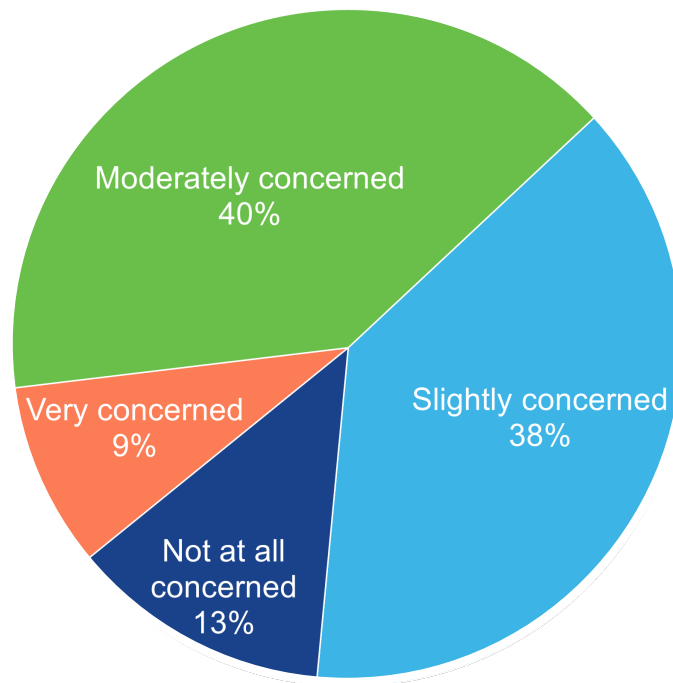
The only agency where employers expect a reduced impact is the Occupational Safety and Health Administration (OSHA), with just 60% of respondents anticipating any degree of impact in 2024—16 percentage points lower than 2022, when COVID-19 was a more pressing concern. While OSHA will continue to be highly relevant to such industries as manufacturing (where 20% expect a significant impact), this overall decrease in focus among employers signals that the concerns around workplace safety stemming from the pandemic have largely subsided.



“While all eyes will certainly be on the outcome of the presidential election, which will shape the direction of employment and labor policy for years to come, employers right now are feeling the impact of various activities and initiatives from regulatory agencies. The NLRB in particular has been pursuing an agenda to reshape U.S. labor law and overturn decades of well-established NLRB precedent, leading to significant changes affecting both unionized and non-union workplaces.”

– Michael Lotito, co-chair of Littler’s Workplace Policy Institute® (WPI®), the firm’s government relations and public policy arm

To what extent is your organization concerned with managing divisive political and social beliefs among employees leading up to the 2024 election?



As Americans prepare for another Biden–Trump presidential contest in a hyperpolarized environment, employers are bracing for the challenge of managing divisive political and social beliefs among employees leading up to the 2024 election. The vast majority of respondents (87%) express concern about the situation, including the nearly half who are either moderately (40%) or very (9%) concerned. Tensions are even higher among large employers, with 94% of respondents reporting at least some concern.

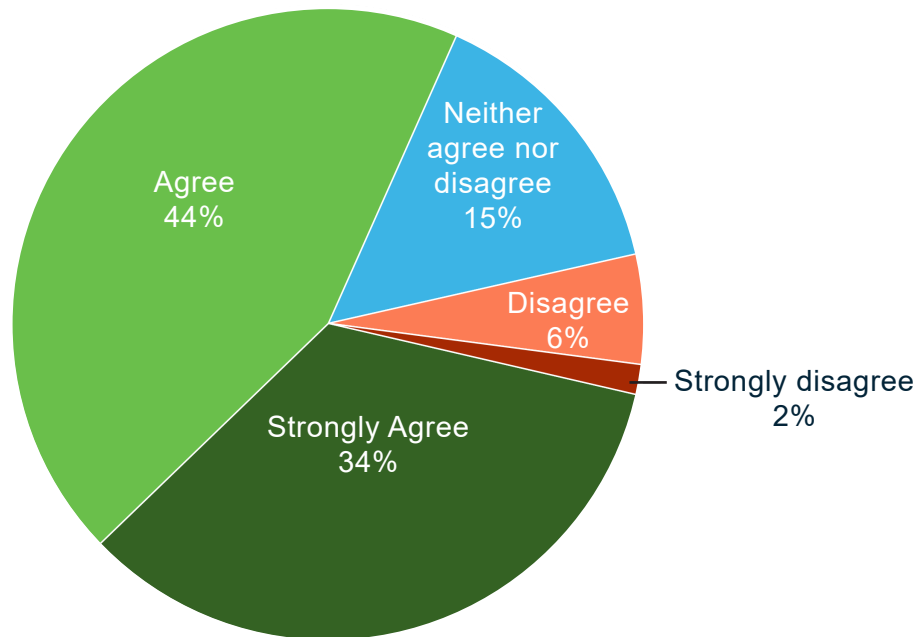
The share of employers concerned about this topic appears to have grown in recent months as the election nears. In Littler’s Inclusion, Equity and Diversity C–Suite Survey Report, published at the start of the year, 27% of C–suite respondents said they were not at all challenged by managing divisive political beliefs among employees (see page 10 [here](#)). While not a one–to–one comparison, the contrast between that result and the higher degree of concern among employers in this more recent survey suggests that this issue will become increasingly prominent for employers in the months to come.

Employers managing politically divided workforces will need to walk a fine line. A recent [NLRB ruling](#) has expanded what falls under “protected concerted activity” under the National Labor Relations Act (NLRA) when it comes to employee advocacy. Meanwhile, states such as [Colorado](#) have moved to explicitly protect certain employees’ political activities, including speech. Given the ramifications of the election’s outcome on employment law, as well as the labor–related statements offered by both candidates, employers attempting to limit contentious political conversations should be careful not to run afoul of the recently expanded interpretations of the NLRA and state laws.



The U.S. Supreme Court will soon issue a decision that could overturn or limit the *Chevron* doctrine, which requires courts to defer to the legal views of federal agencies, including those that enforce labor and employment laws (such as the DOL, NLRB and EEOC). *Chevron* gives federal agencies more latitude in interpreting statutes and can lead to reversals in approach when agency leadership changes with new presidential administrations.

Please indicate your level of agreement with the following statement: “The current level of influence that federal agencies have in interpreting labor and employment laws they are charged with enforcing creates challenges for employers.”



Employers are paying close attention to whether the U.S. Supreme Court will reverse or modify the *Chevron* deference doctrine, which instructs courts to defer to federal agencies in cases where the enabling statute was ambiguous and the agency’s interpretation was reasonable.

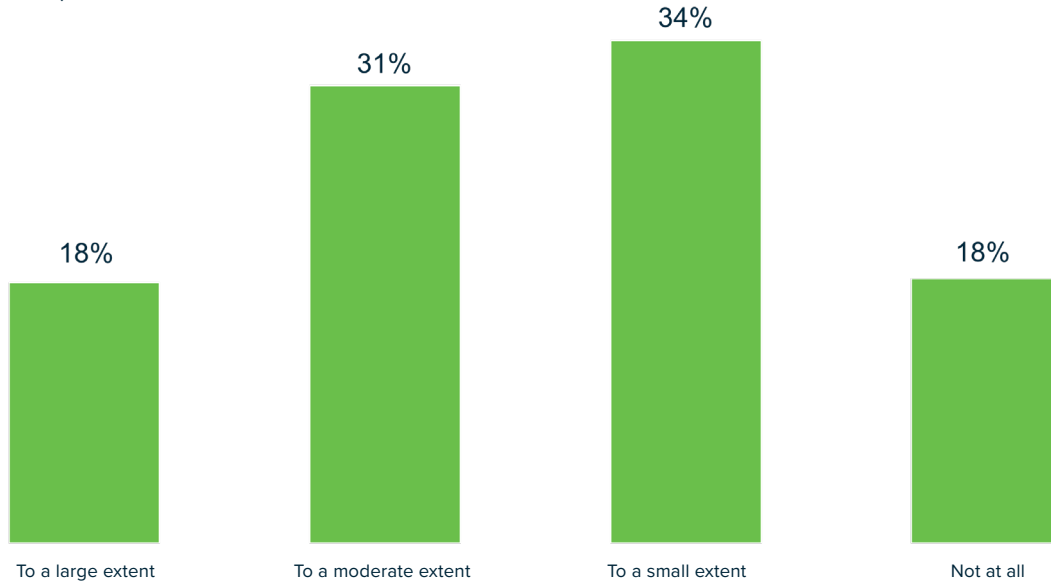
The doctrine stems from the court’s 1984 decision in *Chevron U.S.A. v. Natural Resources Defense Council*. A [recent op-ed](#) authored by Littler’s Michael Lotito and Randel Johnson, former senior vice president at the U.S. Chamber of Commerce, notes that many believe *Chevron* has enabled unelected officials at the NLRB, DOL and other agencies to put forward new rules that align with their policy agendas—largely without a meaningful judicial check.

Employers appear eager to see changes to *Chevron*, with 78% agreeing to some extent that federal agencies’ influence in the interpretation of employment and labor laws creates challenges for employers.

Overturning or significantly modifying *Chevron* would have [immediate impacts](#), particularly for current litigation challenging DOL updates to the [independent contractor rule](#), [Davis-Bacon reform rule](#), and [ESG investing rule](#). Although, importantly, *Chevron* only affects how rules are assessed in court, the impending ruling could lead to consequential shifts in the federal regulatory landscape in the long term as well.

To what extent have recent legislative and regulatory efforts to limit non-compete agreements made your organization less likely to utilize such agreements and explore other options to protect trade secrets/proprietary information?

*This question was only asked to those whose organizations use such agreements (which comprised 85% of respondents)*



Amid ongoing uncertainty around the future of non-compete agreements, many employers seem to be adopting a “wait-and-see” approach to their use of such agreements. Nearly two-thirds of respondents who currently utilize non-compete agreements say they are either moderately (31%) or slightly (34%) less likely to use them due to recent legislative and regulatory activity. At opposite ends of the spectrum, nearly one in five (18%) say they are much less likely to use these agreements, while the same proportion do not anticipate any changes to their usage.

The fact that employers are exploring options beyond non-compete agreements to protect their proprietary and trade secret information is understandable following an [active year](#) of federal agencies and state legislatures looking to regulate and restrict their use. Most notably, the Federal Trade Commission recently issued its [final rule](#) that effectively bans employers’ use of all non-compete agreements (with very limited exceptions). The rule quickly faced legal challenges and it is unclear how long it may take courts to determine whether the regulation is lawful.

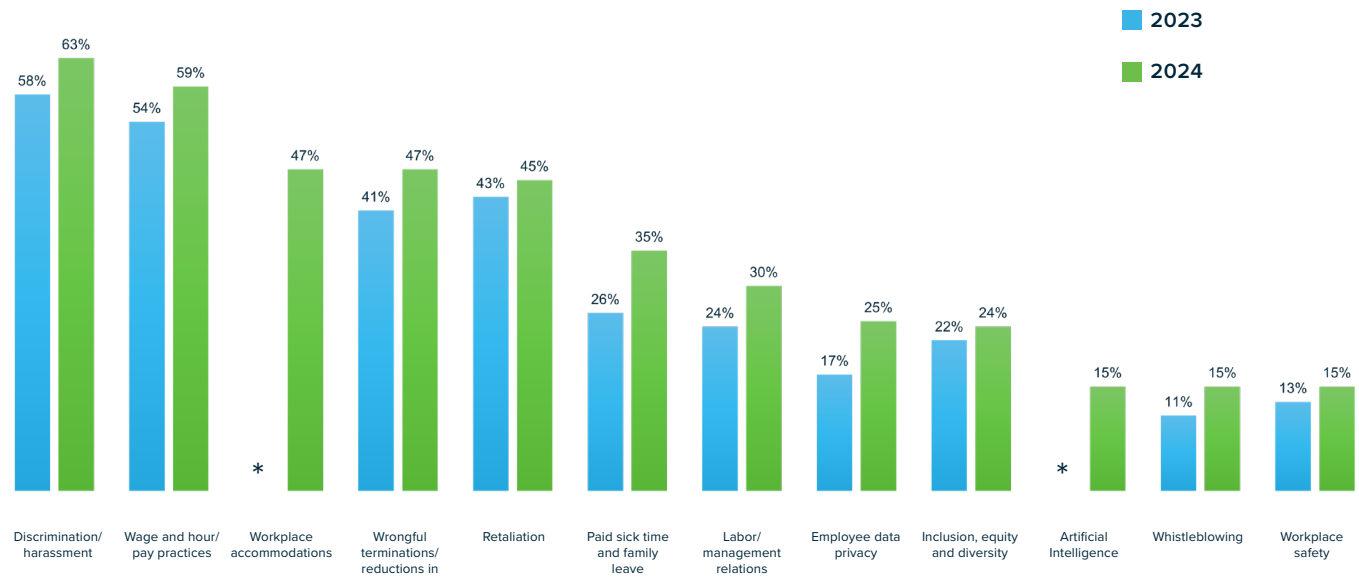
While there has also been activity at the state level, numerous attempts to pass legislation eliminating or restricting the use of non-compete agreements have [stalled or failed](#). For example, New York Gov. Kathy Hochul in December 2023 vetoed a non-compete ban that the state legislature passed that June, and Maine Gov. Janet Mills vetoed similar legislation earlier this year.



“Employers are clearly keeping an eye on efforts to restrict non-compete agreements, but most are waiting for further clarity before shifting their approach. Employers that are concerned about legislative and regulatory developments in this area may consider alternative methods for protecting their confidential information and business relationships, including non-disclosure and non-solicitation agreements, but must still take care to ensure that those agreements comply with local, state and federal laws.”

– James Witz and Melissa McDonagh, Littler shareholders and co-chairs of the firm’s Unfair Competition and Trade Secrets Practice Group

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



\* This answer choice was not provided in the 2023 survey

Litigation concerns are up across the board compared to last year as employers face newly passed laws, as well as regulations approved in prior years that are now coming into force at the federal, state and local levels.

Litigation involving discrimination and harassment was the most concerning area, selected by 63% of respondents. That aligns with the 75% that anticipate moderate or significant impacts from the Equal Employment Opportunity Commission’s enforcement efforts. Relatedly, in comparison to 2023, respondents report slightly elevated concerns around retaliation lawsuits (45%), as well as in the area of inclusion, equity and diversity (24%) after a tumultuous period of pushback against corporate diversity programs.

Wage and hour issues were another area of concern for nearly six in 10 respondents as regulatory developments, including those from the DOL Wage and Hour Division cited above, contribute to litigation fears in this area. Retail and hospitality respondents expressed particular concern about litigation related to discrimination and harassment (81%), wage and hour/pay practices (71%), and retaliation (63%).

Additionally, as employers receive a higher volume of [requests for workplace accommodations](#), nearly half of respondents (47%) express concerns about corresponding litigation. More than a third (35%) are also concerned about lawsuits related to paid sick time and family leave, compared to just 26% last year, as state legislatures pass new requirements mandating [minimum leave policies](#) for most employers.

Furthermore, as organizations confront financial pressures tied to high interest rates and economic uncertainty, 47% of employers worry about litigation related to reductions in force (RIF) and/or wrongful terminations. This an especially salient issue in the tech industry, where 57% of respondents report concerns about RIF litigation following cascading layoffs at tech companies in the past year.

Data protection is also fueling employer worry. With several states having passed [comprehensive data protection laws](#), one-quarter of respondents are expressing concerns around litigation related to employee data privacy, up from 17% in 2023. While there is currently no federal privacy rights framework—and only the [California Privacy Rights Act](#) (CPRA) applies to HR data—exposure could deepen as more states enact HR-specific data protection legislation.

Finally, though AI-specific rules and regulations remain nascent in the U.S., 15% of employers are already concerned about AI-related litigation as the use of the technology in HR grows. This may reflect worries involving employee or applicant data due to AI’s often murky data privacy and storage practices, which can run up against existing data privacy rules. Another potential factor: fears around allegations of discrimination tied to the use of AI in hiring decisions, which is governed by existing discrimination laws as well as [AI-specific regulations in New York City](#). As more legislative proposals and regulatory frameworks on the use of AI advance, the share of concerned employers is likely to grow, as litigation typically lags new laws and regulations.

Large employers appear to be the most worried about litigation, outpacing overall levels of concern. Among these organizations, 76% cite worries around discrimination and harassment claims, compared to 63% overall. The same applies to litigation concerns tied to workplace accommodations (59% of large organizations vs. 47% overall), retaliation (58% vs. 45%), and labor/management relations (42% vs. 30%). For those whose workforces include unionized employees, 54% are concerned about litigation related to labor/management relations.

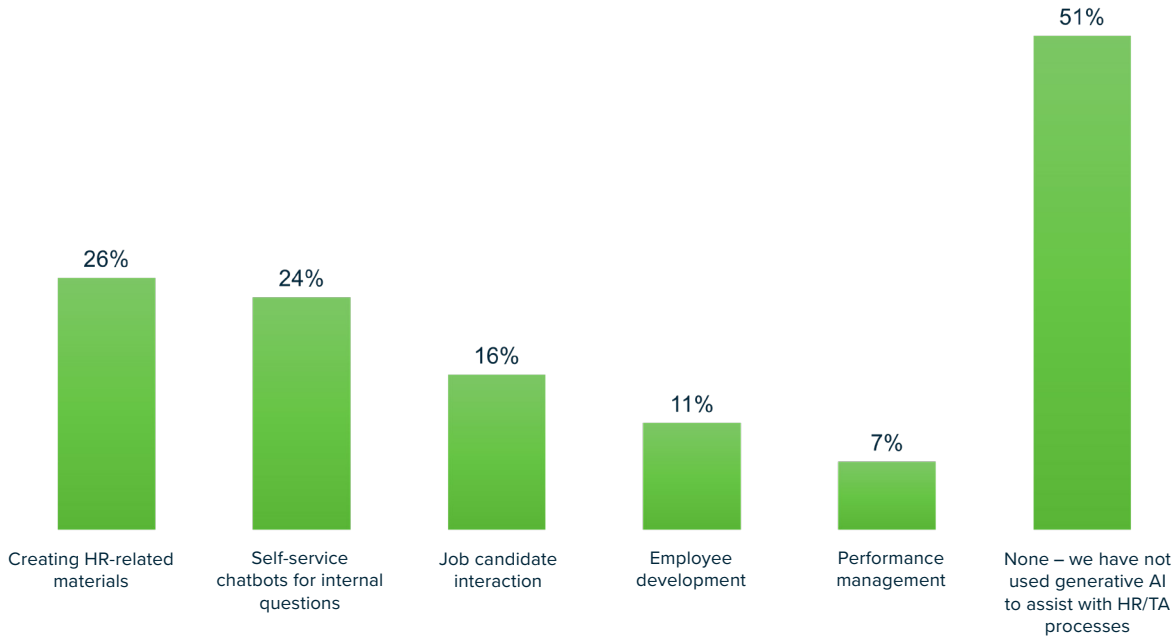


“As employers navigate a once-in-a-generation transformation in labor law, many are anticipating a corresponding increase in litigation relating to labor law issues. Recent changes—such as broader NLRB-imposed remedies and increasingly onerous provisions for employers in NLRB settlement proposals—have shifted the calculus, leading to an increase in litigation that is likely to continue in the year ahead.”

– [Tanja Thompson](#), Littler shareholder and co-chair of the firm’s [Labor Management Relations Practice Group](#)

## AI in the Workplace

In which of the following ways is your organization using generative AI to assist with human resources and talent acquisition processes? (Select all that apply)



As generative AI continues to attract both interest and scrutiny across the business world, employers are split in terms of their adoption of such tools for HR functions: 51% of respondents say their organizations have not used generative AI to assist with such processes, while 49% say they have in some form.

Among respondents who are incorporating generative AI tools for HR and talent acquisition, the most popular uses include creating HR-related materials, such as job descriptions and onboarding documents, (26%) and self-service chatbots for internal questions (24%). A smaller share (16%) are using the technology to interact with job candidates (e.g., personalized outreach, automated interviews), which can help to standardize candidate interactions and [advance diversity in hiring](#).

Generative AI tools are more popular among tech-industry organizations and larger employers, with two-thirds of both respondent groups using them for HR or talent acquisition processes, potentially reflecting more resources and/or greater familiarity with new technologies among such employers. Self-service chatbots are an especially common application, with 50% of technology respondents and 39% of organizations with over 10,000 employees using them for internal questions about policy or procedures. This could be a product of the relative efficiency, predictability and programmability of generative AI chatbots relative to human counterparts, particularly for simple questions such as those covered in employee handbooks.

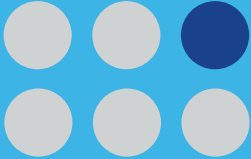
The 51% of organizations that are not using these tools for HR functions may be holding back due to discrimination and bias concerns, among other [employment law-related issues posed by generative AI](#)—particularly as [errors stemming from generative AI usage](#) continue to drive media coverage. This aligns with Littler’s [AI in the Workplace Survey Report](#), released in September 2023, which found that 56% of respondents’ organizations were not using generative AI in any HR capacity.

Yet those who say they are refraining from using the technology may only be speaking to organization-wide policies and procedures, rather than the ways in which individual employees in HR or recruiting are actually using generative AI tools. For instance, it is possible that employees use free online generative AI tools like ChatGPT to compose text and assist with day-to-day tasks. Generative AI may also be built into tools that HR and talent acquisition teams are already using without them realizing it.

**Predictive AI:**  
Tools that analyze existing data to make predictions in employment processes, such as for recruiting and hiring.



**Generative AI:**  
Tools that can be used to create new content or data.



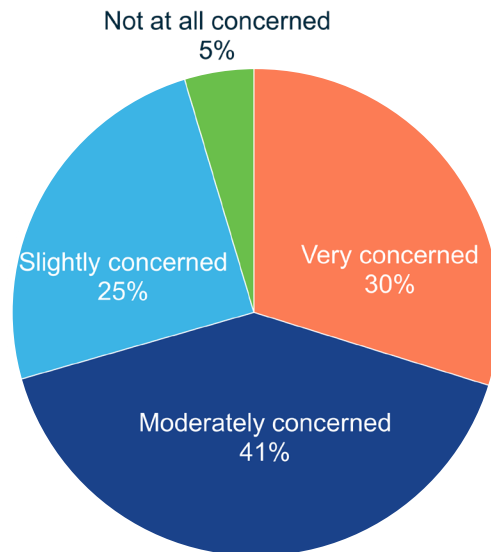
*NOTE: The survey data above refers to only generative AI, whereas for the remainder of this section, respondents were asked to answer based on use of both predictive and generative AI tools.*



“Employers should be intentional about their generative AI usage, not only with regard to whether they use it at all, but also how, why and when. Policies governing the safe usage of AI can help protect against inadvertently running up against data privacy, discrimination and other potential vulnerabilities, along with the reputational issues that can stem from AI hallucinations.”

– Niloy Ray, Littler shareholder and a core member of the firm’s AI and Technology Practice Group

When considering the use of AI for HR purposes, how concerned is your organization about the challenges of complying with data protection and information security laws at the state, federal and/or international levels?



While using AI tools in the workplace raises myriad legal concerns, [compliance with data protection laws](#) is a key area of focus for this emerging technology.

Indeed, when it comes to using AI for HR purposes, nearly three-quarters of respondents are moderately (41%) or very concerned (30%) about the challenges of complying with data protection and information security laws at the state, federal and/or international levels. Among technology industry respondents, 41% are very concerned, likely reflecting a deeper familiarity with how these tools work and the associated risks raised by data protection laws.

That only 5% say their organization is not at all concerned demonstrates a heightened awareness among employers of the data protection compliance risks that accompany the use of AI tools to process applicants' or employees' personal information.

Respondents from large organizations, who are among the survey's most enthusiastic adopters of AI, also are among the most worried about data protection compliance, with 81% saying they are moderately or very concerned. This elevated level of concern likely results from the more complex compliance landscape that large multinationals face following the passage of the [EU's AI Act](#), which materially expands on requirements from the EU's [General Data Protection Regulation](#) and allows for maximum penalties for violations of €35 million or 7% of annual, worldwide gross revenue, whichever is greater.

U.S.-only organizations with a presence in California also are likely to be more concerned about data protection compliance risk in light of challenges presented by the CPRA, the state's comprehensive data protection law. The CPRA currently is the only comprehensive state-level framework applicable to HR data (i.e., the personal information of applicants and employees). In the absence of federal privacy legislation, organizations outside of California that operate only within the U.S. are subject to fewer data protection requirements and may be among the 30% that are only slightly or not at all concerned about data protection risk.

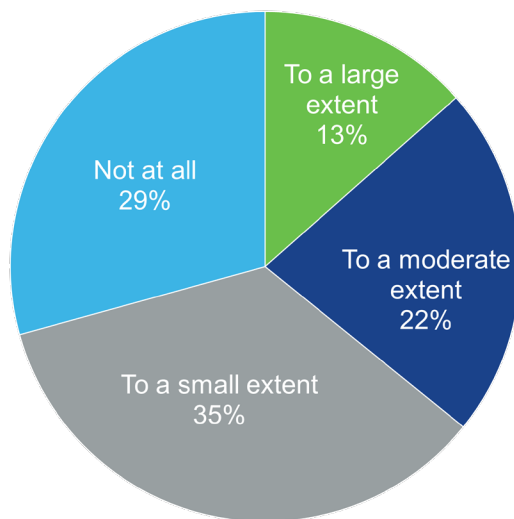




“As employment-related AI tools proliferate, in-house counsel and HR professionals increasingly must confront the many data protection and information security laws that apply to the use of AI tools. Fortunately for employers, virtually all data protection laws apply a similar framework, allowing employers to follow a relatively straightforward checklist to address the major data protection challenges triggered when using AI tools to process HR data. Employers should be applying this framework now, before these tools become embedded in their organizations.”

– Philip Gordon, Littler shareholder and co-chair of the firm’s Privacy and Data Security Practice Group

To what extent is your organization coordinating with the AI tool developers and providers you work with to assess potential risks, including bias, accessibility, privacy and data breaches?



Despite the high degree of concern surrounding compliance with data privacy and protection laws, 29% of respondents say they have not coordinated with the developers and providers of their AI tools to assess the risks those tools may pose to their organizations. While a higher proportion of large employers and technology respondents reported coordinating to a large extent (at 20% and 27%, respectively), the majority still only do so to a small extent, or not at all.

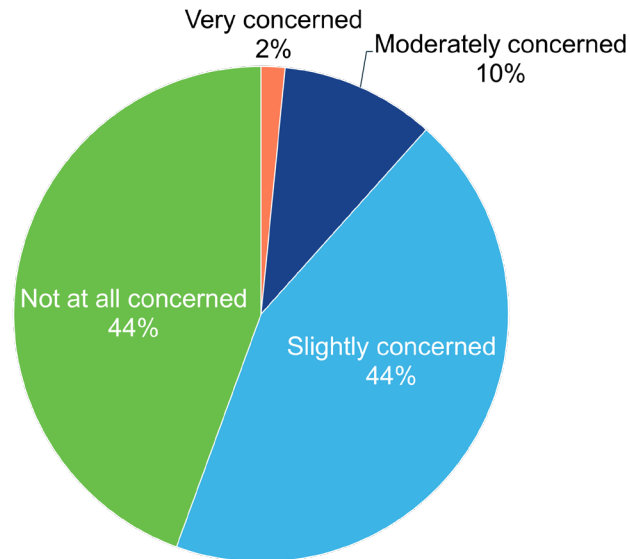
Organizations looking to reap the most value out of their investments in AI can collaborate with developers and vendors—who likely have the most in-depth knowledge of how their tools work and learn—to assess and mitigate risks related to bias, accessibility, privacy and data breaches. It is also important that organizations define upfront in their vendor agreements who bears the liability for risks.



**“Employers should be leveraging all the tools at their disposal to minimize the risks of AI usage, including coordinating with the vendors that build and sell these platforms. Managing the issues posed by AI necessitates a thorough understanding of how the tool works that comes from coordination with the vendor throughout the technology’s lifecycle, not just at the initial sales pitch.”**

**– Marko Mrkonich, Littler shareholder and a core member of the firm’s AI and Technology Practice Group**

To what extent is your organization concerned about job displacement as the use of AI and other technologies replace or streamline various job-related tasks?



Despite predictions about the transformative impact AI will have on the workplace, few respondents say their organizations are concerned about corresponding job displacement. Just 12% are moderately or very concerned, while 88% are only slightly or not at all concerned about AI-related job displacement.

This could reflect perceptions among employers that AI—at least as it currently exists—is better understood as a tool that supplements human tasks rather than a replacement for employees. Using AI to automate or speed up routine or repetitive tasks, for example, could allow humans to spend more time on creative and higher-value work. At the same time, best practices surrounding the use of AI emphasize the importance of human verification of AI outputs, meaning the need for employees within organizations that deploy those tools remains.

Yet in the near future, the impact of AI job displacement is likely to become more of a reality. The survey showed higher levels of concern among respondents from large organizations (only 35% are not at all concerned about job displacement) and those in the technology industry (21% are moderately concerned). As subsets of the corporate world that are investing in and utilizing such tools to a larger extent than the overall group—as noted earlier in this section—they may be ahead of the curve in realizing the impact of AI developments on their workforces.

The increasing use of AI tools will drive greater attention to the need to upskill employees. Littler’s [Workplace Policy Institute®](#) (WPI®)—the firm’s government relations and public policy arm—has long been at the forefront of [advocating for policies](#) in the U.S. to prepare for the disruptive impact of AI and other technologies, including providing workers with the skills, training and resources to adapt.

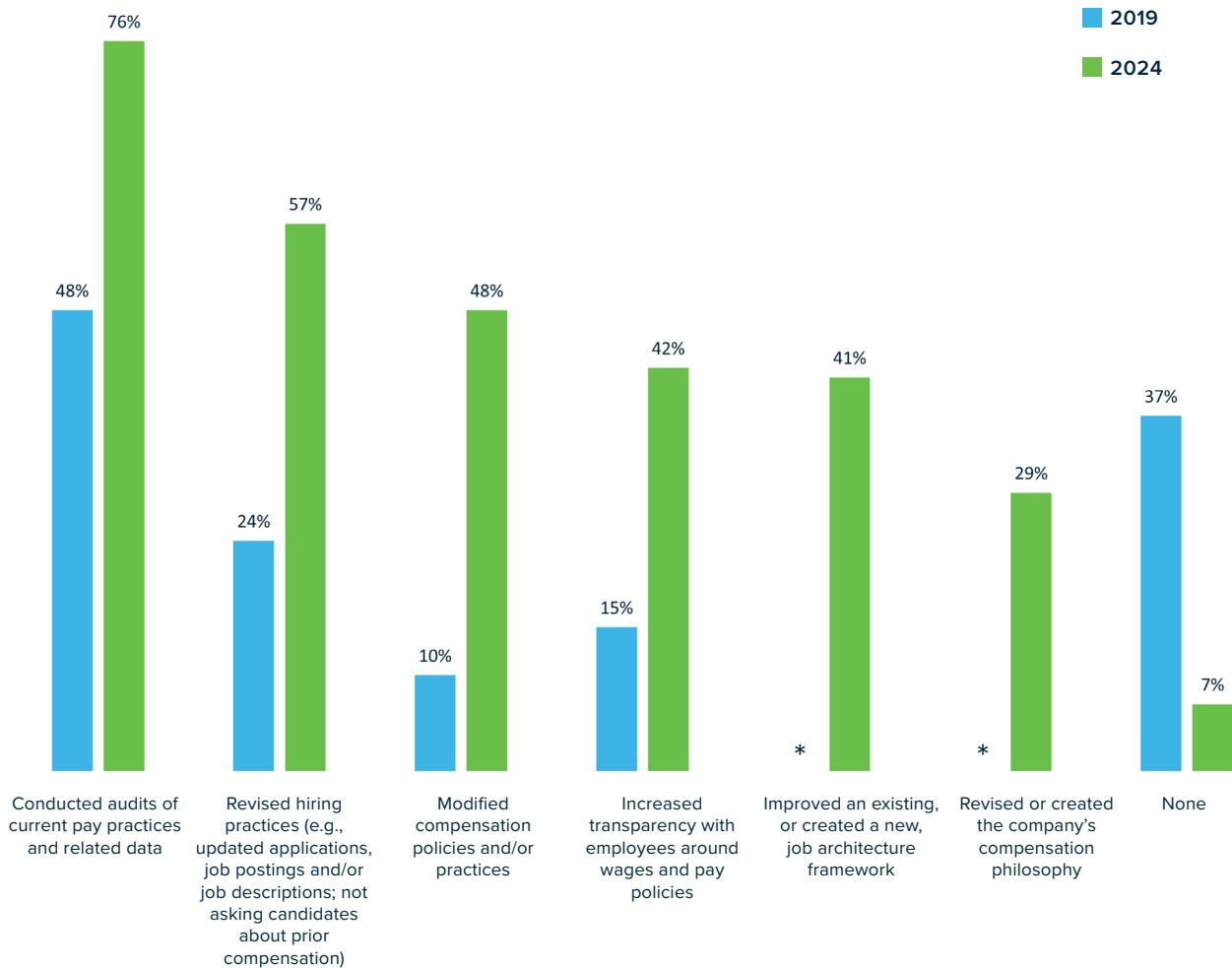


“The multifaceted and dramatic impact of AI and technology on the workplace has been a topic of discussion for some time, along with the need for businesses, governments, communities and educators to collaborate to provide workers with the knowledge and skills to succeed in the new world of work. Yet we still do not have the policies and programs in place to meet the current and future demands of the market. Given the growing realization among employers of the impact AI will have on their workforces, it is imperative to cultivate a talent pipeline that supports constant workforce transformation and reskilling.”

– Shannon Meade, Executive Director of WPI

## Workforce Management

Which of the following actions, if any, has your organization taken to address pay equity issues? (Select all that apply)



\* This answer choice was not provided in the 2019 survey

Employers are increasingly focused on addressing pay equity issues within their organizations. In recent years, employees have felt more empowered to ask for compensation-related information, while increased attention to such issues is putting pay equity on more C-suite and boardroom meeting agendas. This shift comes as societal changes and increased adoption of inclusion, equity and diversity initiatives has heightened scrutiny around equal pay and other workplace fairness and discrimination issues.

Reflecting these trends, 93% of respondents say their organizations have taken at least one step to address pay equity—a significant increase compared to just 63% who said the same five years ago, in our [2019 Annual Employer Survey](#). More than three-quarters (76%) have conducted audits of their current pay practices and related data, compared to just under half (48%) who said the same in 2019.

The same is true for other employer actions aimed at improving pay equity, including revising hiring practices, modifying compensation policies, and increasing transparency with employees around wages and pay policies. The share of organizations that have adopted such steps has more than doubled over the last five years.

Employers also are taking a multipronged approach to improving pay equity within their organizations, with most respondents selecting three to four actions on average. There are often natural synergies between these steps: As one example, creating a new job architecture framework often leads to modified compensation practices, which in turn can impact the organization’s larger compensation philosophy.

While there is an increased focus on pay equity, room for improvement remains. For instance, employers often have different definitions of what amounts to an audit—with some utilizing internal resources instead of undergoing a full audit conducted by outside counsel—and such reviews may involve varying levels of data analysis. Additionally, our survey results show that while a majority of employers report undertaking an audit of pay practices and related data, far fewer have undertaken other actions aimed at improving their practices around pay equity.

That only 42% have increased transparency around wages and pay policies is surprising, given the ever-growing list of jurisdictions in the U.S. that require employers to disclose compensation on job postings. This may be because some respondents do not view complying with legal obligations to disclose salary ranges as increasing their overall transparency in this area. Further, given that pay transparency laws across states and cities have their own nuances, some employers have chosen to alter their practices around compensation-related disclosures only where pay transparency is mandatory.

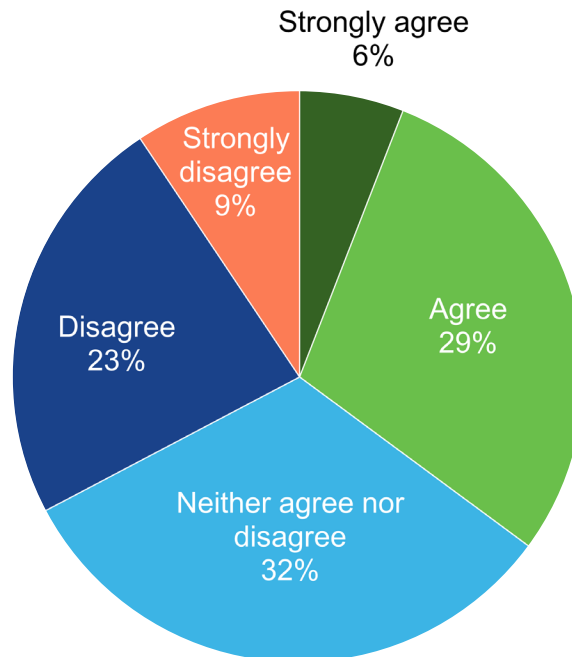
Respondents in the technology industry expressed taking greater action across the board, particularly with regard to revising hiring practices (73%), increasing transparency with employees (63%), and revising or creating compensation philosophies (51%).



“Discussions around pay equity have taken on heightened importance and employers are rightly focused on fair pay as part of their broader workplace equality initiatives. Conducting audits of pay practices is an important first step, but it is also critical that organizations examine their overall compensation philosophy and confirm it produces pay decisions that are fair and equitable. Jumping into a solution to address pay equity without a clear strategy and proper planning—including conducting audits without the protection of attorney-client privilege—can lead to serious ramifications.”

– Denise M. Visconti, Littler shareholder who helped develop the Littler Pay Equity Assessment™

To what extent do you agree with the following statement: “In the wake of increased challenges to corporate diversity programs, my organization is facing uncertainty with regard to how to lawfully drive forward our inclusion, equity and diversity initiatives.”



After a challenging year for corporate inclusion, equity and diversity (IE&D) efforts—including the Supreme Court’s rejection of affirmative action in college admissions and new anti-IE&D state laws—some employers are struggling with how to legally drive such initiatives forward.

More than a third of respondents (35%) agree or strongly agree that their organizations are facing uncertainty with regard to how to move ahead with their IE&D programming in a legally compliant way. Respondents from large employers, which tend to operate across more jurisdictions and face greater scrutiny, were even more likely to say their organizations face uncertainty, at 48%.

On the other hand, respondents were roughly split on this question, with 32% saying that their organizations are not grappling with uncertainty in this area. Another 32% neither agree nor disagree, which may indicate that, regardless of whether they are facing uncertainty, those organizations are still moving forward with their IE&D initiatives.

Importantly, this question does not reflect uncertain *commitments* to IE&D; in fact, Littler’s recent [Inclusion, Equity and Diversity C-Suite Survey Report](#) found only 6% of executives said their organizations had decreased their IE&D commitment and level of activity in 2023.

The lack of certainty around the future of IE&D programs may stem from communication issues within organizations on adjustments to these initiatives in response to new legal developments. Just under a quarter of C-suite respondents (24%) to this most recent survey say their organizations were dealing with this uncertainty, compared to 35% overall, perhaps signaling that IE&D plans developed by leadership are not always being effectively communicated across the entire organization.



“Even as the vast majority of employers maintain or intensify their commitments to IE&D amid growing backlash, many are also taking the prudent step of auditing and assessing their current initiatives to ensure they’re compliant with applicable laws. Uncertainty within organizations around how the changing landscape is impacting IE&D programs highlights the need for clear and consistent communication from leadership.”

– Jeanine Conley Daves, Littler shareholder and member of the firm’s Inclusion, Equity and Diversity Consulting Practice Group



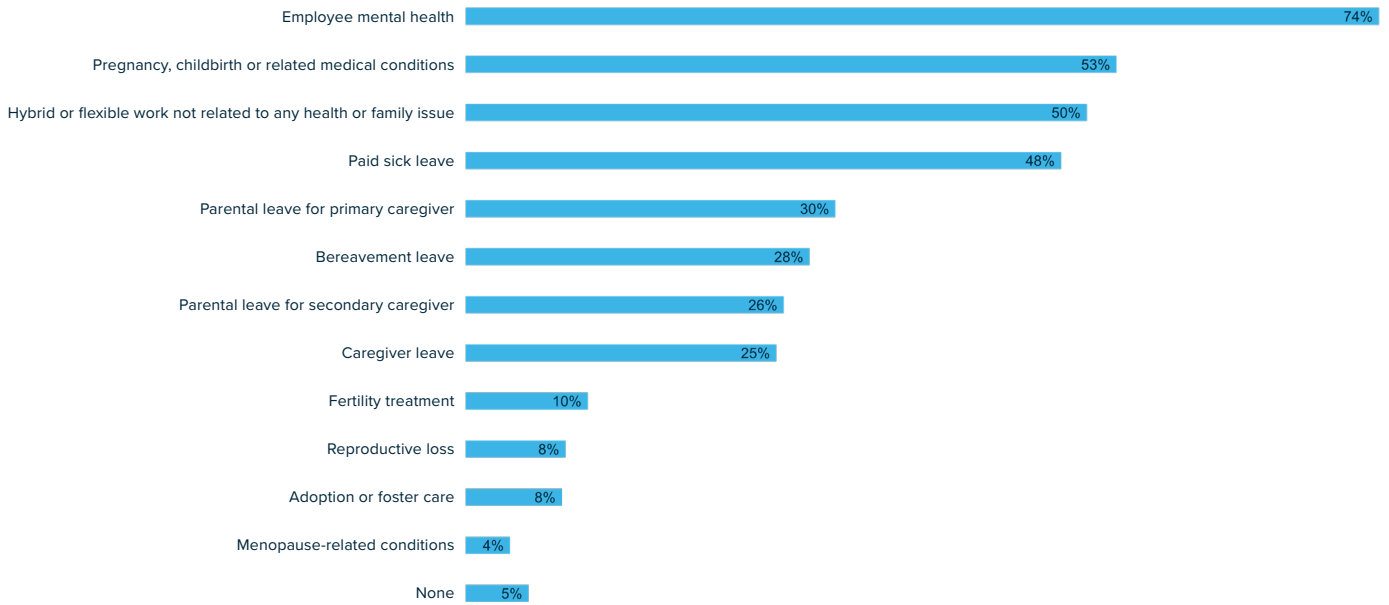
### LITTLER’S 2024 INCLUSION, EQUITY AND DIVERSITY C-SUITE SURVEY REPORT

In late 2023, Littler surveyed more than 300 C-suite executives located across the U.S. to examine the state of employers’ IE&D commitments and initiatives, as well as the outlook for the year ahead. Key findings include:

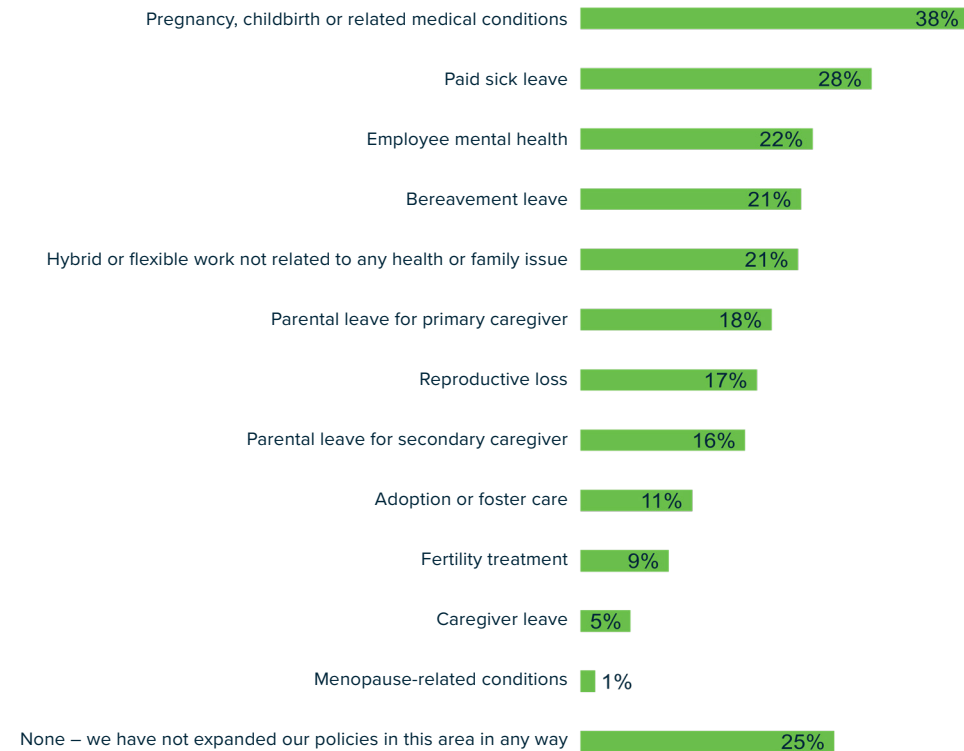
- Nearly six in 10 executives surveyed said their organizations had increased their IE&D commitment and level of activity to some degree since late 2022, with 17% boosting their dedication significantly.
- The majority of executives agreed (38%) or strongly agreed (21%) that backlash against IE&D programs or initiatives had increased since the Supreme Court ruled that race-based admissions programs are unconstitutional, yet 91% of C-suite leaders said the rulings had not caused them to diminish their focus on IE&D.
- Indicating room for growth in their initiatives, 35% did not agree that their organizations have clear plans and goals in place relating to IE&D.



In which of the following areas has your organization received increased requests for leaves or accommodations over the past year? (Select all that apply)



In which of the following areas has your organization revised or expanded its accommodations and/or leaves of absence policies over the past year? (Select all that apply)



As workplaces continue to grapple with the long-term physical, mental and cultural aftereffects of the pandemic, as well as polarizing geopolitical events, nearly all respondents (95%) report receiving increased employee requests for leaves of absence or accommodations over the past year.

Close to three-quarters (74%) of all respondents—and 86% of those from large organizations with more than 10,000 employees—have seen an increase in mental health-related accommodation and leave requests from employees. This finding reflects employees' increased willingness to disclose psychological conditions and neurodiversities following the pandemic, along with employees' greater familiarity with the accommodation and leave request process. Yet despite this dramatic increase in employee requests, just 22% of respondents say they have changed their employee mental health accommodation and leave policies.

While employer policies often lag one to two years behind shifts in workplace dynamics, this difference could also indicate that employers are struggling to interpret and adequately accommodate employee mental health issues. Not only is it still difficult for employees to identify and secure mental health resources to support a requested accommodation, but it can also be challenging for employers to determine how to properly respond, given that every request involves its own unique set of considerations.

During the same period, more than half of employers (53%) have seen an increase in requests pertaining to pregnancy, childbirth or other related medical conditions. This comes after the Pregnant Workers Fairness Act (PWFA), which took effect in June 2023, required employers with 15 or more employees to make reasonable accommodations to known limitations related to pregnancy, childbirth or related medical conditions. The EEOC recently issued its [final rule and interpretive guidance](#) implementing the PWFA, which will take effect 60 days after its April 19 publication in the *Federal Register*. Despite these changes, just 38% of respondents say their organizations have updated pregnancy-related accommodation and leave policies over the last year.

Respondents in the retail and hospitality sectors revised or expanded their policies that address pregnancy, childbirth or other related medical conditions (57%) and employee mental health (36%) to a greater extent than overall respondents.

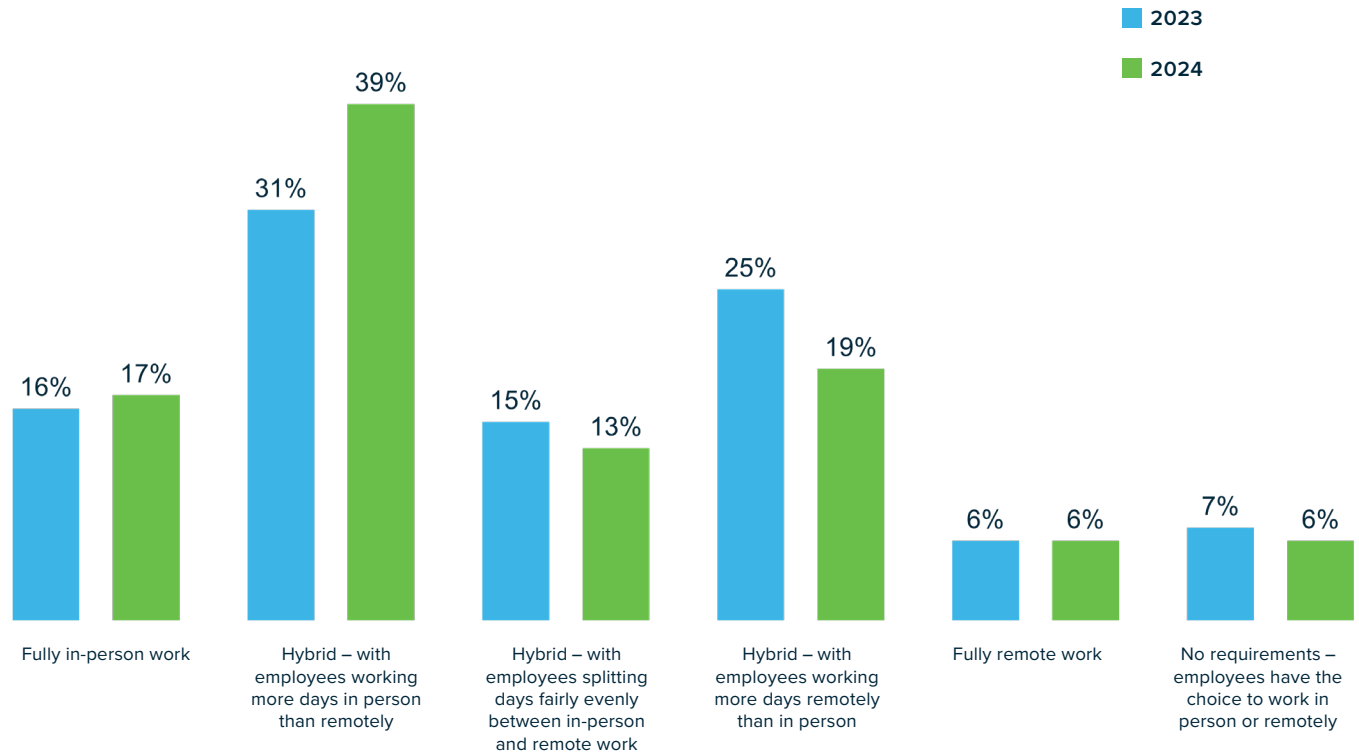
Notably, half of respondents say they have received increased requests around hybrid or flexible work not related to any health/family issue or existing legal requirement. More than one in five (21%) say their organizations have revised or expanded their policies around such requests.



“Though the pandemic may be in the rear-view mirror for most purposes, many employers are still seeing its lasting effects in the form of vastly increased accommodation requests, particularly related to mental health. Additionally, the fact that half of employers responding to our survey are continuing to see—and grant—requests for hybrid or flexible work that are not tied to any legally protected reason reflects a fundamental shift in how remote work has become an expectation for many employees.”

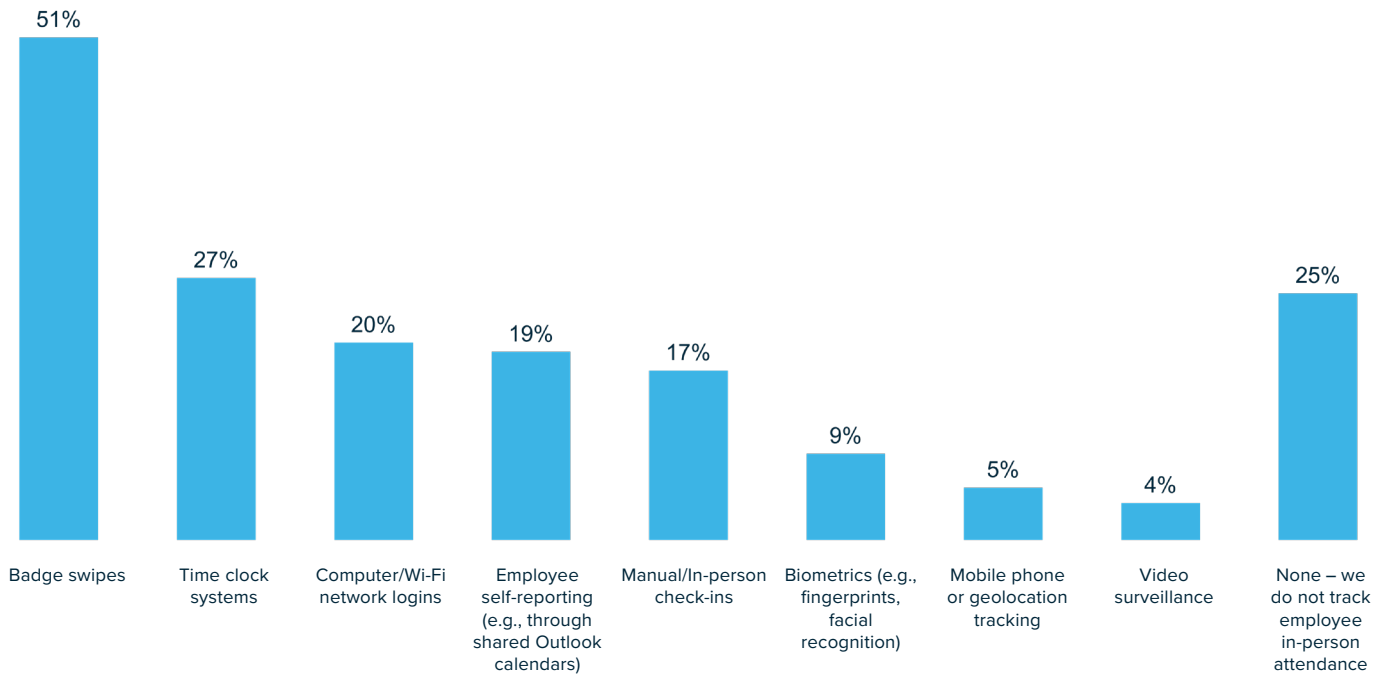
– Devyani Mishra, Littler shareholder

Which of the following best describes your organization’s current requirements for employee work schedules?



Which of the following methods, if any, is your organization utilizing to track employee in-person attendance? (Select all that apply)

*This question was not asked to respondents whose organizations are fully remote or who do not have any requirements for employees to work in-person*



More than four years after the start of the pandemic, expectations around fully in-person work appear to have stabilized, with 17% saying their organizations require employees to work in person everyday (compared with 16% in 2023).

While 71% say their organizations operate under some form of a hybrid work schedule (the same proportion as last year’s survey), there was a notable shift toward increased in-person work. Specifically, 39% now require employees to work more days in person, compared to 31% in 2023, and 19% have hybrid schedules that lean toward more remote days (down from 25% in 2023). Large organizations in particular lean toward more days working in person, with 46% utilizing this type of hybrid policy. This data suggests that employers remain focused on bringing employees back into the office more frequently—even if it is for only part of the week.

It is worth noting that respondents are reflecting on the work schedules of their entire employee base, so it is possible that some—such as those in manufacturing, retail or other industries involving frontline workers—may have selected a hybrid work option if they have both employees who are fully in-person and office workers with hybrid schedules.

By contrast, the prevalence of remote work remains stronger in industries such as professional services and technology. Just 2% of technology respondents, for example, require fully in-person work, compared to 17% overall, while 17% allow fully remote work, compared to just 6% overall.

When it comes to enforcing in-person work policies, 75% of respondents—and 84% of those from companies with more than 10,000 employees—say their organizations are tracking in-office attendance. Utilizing existing capabilities, 51% track attendance with badge swipes from when an employee enters the building, while 27% use time clock systems and 20% use computer or wifi network logins.

A small but significant contingent of respondents say they use more sophisticated tools, including biometrics (9% overall, with this figure rising to 22% for retail and hospitality industry respondents) and mobile phone or geolocation tracking (5%). For employers that use these types of tools, it is important to have proper policies and procedures in place to address compliance with data privacy and information protection laws such as the [Illinois Biometric Information Privacy Act](#), which imposes steep fines on employers that collect and store biometric data.

Even among the 25% of employers that say they are not tracking in-office attendance, many have access to the data—via badge swipes or computer logins—and could feasibly rely on this information to review employee attendance at a later date.



“For employers looking to increase in-person work and adherence to such policies through monitoring tools, a good first step is to establish a strategy and plan for approaching this issue with intentionality top-of-mind. This can include fully understanding information that can be derived from data, planning for data collection and storage, instituting clear policies for how the information will be used, and communicating those policies to managers and employees. Negative implications on employee morale, and even claims of discrimination, could arise if data on in-office attendance is applied to employment decisions and performance evaluations inconsistently or without advance notice.”

– [Britney Torres](#) and [Mickey Chichester](#), Littler shareholders and core members of the firm’s [AI and Technology Practice Group](#)

## Methodology and Demographics

In February and March 2024, 402 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 Officer / General Counsel / Deputy General Counsel (18%)
- In-house lawyers (41%)
- Chief Human Resources Officer / Chief People Officer (16%)
- HR professionals (21%)
- Other C-suite title (2%)
- Other professionals (2%)

Companies represented were of a variety of sizes:

- More than 10,000 employees (38%)
- 5,001 to 10,000 employees (13%)
- 1,001 to 5,000 employees (19%)
- 501 to 1,000 employees (8%)
- 101 to 500 employees (15%)
- 1 to 100 employees (7%)