



U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Washington, D.C. 20507

Office of
Legal Counsel

April 15, 2021

By electronic mail to egeee@nrf.com

America's Health Insurance Plans; American Benefits Council; American Dental Association; American Health Policy Institute; American Hotel & Lodging Association; American Rental Association; Associated Builders and Contractors Associated General Contractors; Auto Care Association; Blue Cross Blue Shield Association; Business Group on Health; Coalition of Franchisee Associations; Council for Affordable Health Coverage; The Council of Insurance Agents and Brokers; DD Independent Franchise Owners, Inc.; The ERISA Industry Committee; Family Business Coalition; Franchise Business Services; Heating, Air-conditioning, & Refrigeration Distributors International; HR Policy Association; Institute for the American Worker; International Franchise Association; International Warehouse Logistics Association; National Armored Car Association; National Association of Health Underwriters; National Association of Landscape Professionals; National Association of Manufacturers; National Association of Wholesaler-Distributors; National Automobile Dealers Association; National Club Association; National Franchise Association; National Ready Mixed Concrete Association; National Restaurant Association; National Retail Federation; Pacific Business Group on Health; PRINTING United Alliance; Self-Insurance Institute of America; Small Business & Entrepreneurship Council; The Society for Human Resource Management; Society of Professional Benefit Administrators Tree Care Industry Association; U.S. Chamber of Commerce

Dear Mr. Egee and Correspondent Organizations:

Thank you for your letter requesting guidance from the U.S. Equal Employment Opportunity Commission (Commission or EEOC) regarding employer-provided incentives for COVID-19 vaccinations.

Throughout this COVID-19 pandemic, the EEOC has responded to COVID-19 related matters raised by employers and workers through its technical assistance publication entitled *What You Should Know About COVID-19 and the ADA, the Rehabilitation Act, and Other EEO Laws*, <https://www.eeoc.gov/wysk/what-you-should-know-about-covid-19-and-ada-rehabilitation-act-and-other-eeo-laws>. Topics addressed to date include, among other issues, the application of EEO laws to worksite entry COVID-19 screening programs (including testing), requirements for confidentiality of medical information obtained by employers in various pandemic-related situations, reasonable accommodation of those with underlying disabilities that put them at greater risk of severe illness if they contract the virus, frequently-asked "return to work" scenarios, pandemic-specific issues related to age discrimination and pregnancy discrimination, and pandemic-related harassment due to national origin or race. The most recent update to this online technical assistance document, Section K, focused on vaccinations.

Your letter specifically asks the EEOC to “clarify[...] the extent to which employers may offer employees incentives to vaccinate without running afoul of the Americans with Disabilities Act [ADA] and other laws enforced by the EEOC.” The agency expects to update its technical assistance about COVID-19 to address these issues, among others, and that work is ongoing.

We hope this information is helpful to you, and we keenly appreciate the public’s interest in receiving assistance in complying with the federal employment laws.

Sincerely,

Carol R. Miaskoff
Acting Legal Counsel

cc: Charlotte A. Burrows, Chair
Jocelyn Samuels, Vice Chair
Janet Dhillon, Commissioner
Keith E. Sonderling, Commissioner
Andrea R. Lucas, Commissioner