

Coronavirus Update for U.S. Employers

Article By:

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Recent fast-paced developments, increasing employee apprehensions, and uncertainty regarding the Novel Coronavirus 2019-nCoV have left employers and employees with some concerns. We [recently discussed](#) the emergence of the coronavirus, which is believed to have originated in Wuhan, China, and the first confirmed cases in the United States, which were deemed to be travel related and acquired by individuals traveling from China.

On January 30, 2020, the U.S. Centers for Disease Control and Prevention (CDC) [confirmed](#) the first person-to-person transmission of the virus within the United States. This individual does not have a known history of travel to China but is believed to share a household with an individual who was confirmed to be infected with 2019-nCoV on January 21, 2020. As of the date of publication of this article, there are 11 [confirmed cases](#) of the virus in the United States, with patients in Arizona, California, Illinois, Massachusetts, and Washington.

On January 30, 2020, the World Health Organization [declared](#) 2019-nCoV to be a Public Health Emergency of International Concern, which it [defines](#) as an “extraordinary event” that “constitute[s] a public health risk to other States through the international spread of disease.” On January 31, 2020, the U.S. Secretary of Health and Human Services Alex M. Azar II [declared](#) a public health emergency in the United States in response to 2019-nCoV. This declaration [allows](#) the CDC’s director to access the Infectious Diseases Rapid Response Reserve Fund or apply for an Emergency Use Authorization for medical countermeasures needed for a public health response.

The CDC [reports](#) that 2019-nCoV continues to be a “very serious public health threat,” but that it is “unclear how the situation in the United States will unfold.” The CDC continues to assess the immediate health risk to the U.S. public as [low](#). Nevertheless, the Occupational Safety and Health Administration (OSHA) [advises](#) employers to monitor CDC interim guidance and take appropriate precautions.

One of the primary concerns facing U.S. employers is situations in which employees (1) have traveled or will travel to China or other higher-risk areas, (2) may have come into close contact with individuals potentially infected with 2019-nCoV or who work in jobs that may involve close contact with travelers, such as airline workers, border protection, or clinical healthcare and laboratory workers.

Employers with employees in positions at risk of exposure to the virus may wish to consider taking

the following measures:

Travel

Continue to suspend travel to high-risk areas. Currently, the CDC has imposed a [Level 3 travel alert](#) covering mainland China, which advises avoiding all nonessential travel to China. Many employers have temporarily suspended business travel to China, and some have included surrounding areas, pending further developments.

Hygiene

Encourage good hygiene among workers. To help prevent the spread of the virus, the CDC [recommends](#) “everyday preventive actions . . . including:

- Wash your hands often with soap and water for at least 20 seconds, especially after going to the bathroom; before eating; and after blowing your nose, coughing, or sneezing.
- If soap and water are not readily available, use an alcohol-based hand sanitizer with at least 60% alcohol. Always wash hands with soap and water if hands are visibly dirty.
- Avoid touching your eyes, nose, and mouth with unwashed hands.
- Avoid close contact with people who are sick.
- Stay home when you are sick.
- Cover your cough or sneeze with a tissue, then throw the tissue in the trash.
- Clean and disinfect frequently touched objects and surfaces using a regular household cleaning spray or wipe.”

Employers may want to consider posting these hygiene recommendations and making additional hand sanitizer and other hygiene products available throughout their workplaces.

Education

Educate employees on call-out procedures, sick leave availability, and other company-provided health resources (including health insurance–related services such as telemedicine and virtual healthcare companies), and encourage employees who are symptomatic or feel sick to stay home and seek appropriate medical care.

Policies

Assess applicability of policies and ensure their compliance with relevant OSHA [standards](#), such as the personal protective equipment and bloodborne pathogens standards.

Other Precautions

Determine the company's approach to travel-based risks. While the CDC and other health authorities are screening travelers inbound from China, many employers have implemented other precautions for business travelers returning to the United States from China and other high-risk areas. These include offering employees voluntary medical screenings, asking employees to work remotely for 14 days before returning to the worksite, and providing employees with updated information on the signs and symptoms of 2019-nCoV infection and the latest CDC [guidance](#) for travelers.

The CDC [advises](#) individuals who have returned from China within the past 14 days and who begin to experience symptoms, such as fever, coughing, or respiratory difficulties, to seek medical care right away (informing their healthcare providers of their circumstances before arriving for care), avoid contact with others, cover their mouths and noses with a tissue or their sleeves when coughing and sneezing, and wash their hands often with soap and water for at least 20 seconds.

Additional Health Screenings

Cautiously assess any employee screening initiatives, particularly if not offered on a voluntary basis. Some employers have considered offering additional health or medical screenings, such as establishing stations to take employee temperatures to monitor for fever. Particularly when such measures are imposed on an involuntary basis, employers may want to exercise caution and review pertinent regulatory guidance. In that regard, employers might find the Equal Employment Opportunity Commission's (EEOC) Pandemic Preparedness in the Workplace [guidance](#) helpful. There, for example, the EEOC cautions that taking an employee's temperature may be considered a medical examination under the Americans with Disabilities Act of 1990 (ADA), which means it may be unlawful unless such action is advised by health authorities or where the employer can show, based on objective medical evidence, that the employee poses a direct threat to the health and safety of other employees. Further, in accordance with the ADA, any medical information collected from an employee must be maintained separately in a confidential medical file.

Sick Leave

Encourage sick employees to stay home. An employer may send home an employee who is exhibiting symptoms such as fever and cough. Further, based on the EEOC's Pandemic Preparedness in the Workplace guidance, an employer may ask an employee if he or she is experiencing symptoms such as fever and cough, but such information must be maintained in a separate confidential medical file in accordance with the ADA.

Accommodations

Be prepared to address employee requests for accommodations, such as exceptions from business travel requirements, on an individual basis, ensuring compliance with the ADA and applicable state and local laws.

Workplace Safety

Be prepared to address employee safety concerns as they arise, such as where workers express concern over the safety of their work environments or in handling goods or cargo from China or other higher-risk areas. In that regard, the CDC presently assesses there to be "[likely very low risk of spread from products or packaging that are shipped over a period of days or weeks at ambient temperatures.](#)" Nevertheless, employers may want to address employee safety concerns on a case-

by-case basis to ensure compliance with applicable employee protections under the Occupational Safety and Health Act, the National Labor Relations Act, any applicable collective bargaining agreements, and any applicable state and local laws.

Through educating their employees and implementing some of the steps mentioned above, employers will be helping to prevent the spread of 2019-nCoV and safeguard the health and safety of their workforces. As this situation continues to develop, employers may want to monitor the latest CDC guidance and follow relevant directives and recommendations as they are issued in order to ensure continuity of operations.

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