

2019 Novel Coronavirus & Flu: What Employers Need to Know on Quarantines and Preventing the Spread of Disease in the Workplace

Article By:

Kelli L. Hayes

Hayley Geiler

Flu season is in full swing, with the Center for Disease Control (“CDC”) [confirming](#) over 155,000 positive U.S. cases of influenza since Sept. 29, 2019. Simultaneously, the coronavirus COVID-19 has spread rapidly across China, with at least 70,000 confirmed cases, including 15 [confirmed cases](#) in the United States. In response, employers need to be prepared to assist employees in staying safe and complying with potential quarantines.

Beginning Feb. 2, 2020, the [*Proclamation on Suspension of Entry as Immigrants and Nonimmigrants of Persons who Pose a Risk of Transmitting 2019 Novel Coronavirus*](#) is in effect. This Presidential Proclamation suspends and limits the entry of immigrants and nonimmigrants who were physically present within the People’s Republic of China (excluding Hong Kong and Macau) during the 14-day period preceding the individual’s entry to the United States. Certain exceptions to this suspension exist, including exemptions for lawful permanent residents, spouses of U.S. citizens or lawful permanent residents, among others. Individuals with urgent needs to travel to the U.S., but who must obtain a nonimmigrant visa prior to entry to the U.S., must submit an emergency appointment request at a U.S. embassy or consulate (ustravel-docs.com) and request an exemption.

Supplemental instructions issued by the Department of Homeland Security directed all flights from China, and all passengers who have traveled to China within the last 14 days, to be routed to one of 11 U.S. airports where the U.S. government established enhanced screening procedures and the capacity to quarantine passengers, if necessary. The full list of airports is available [here](#). Additionally, the government is recommending all passengers returning from China, or who may have been exposed to COVID-19, undergo a voluntary 14-day quarantine in their homes.

Impacts on Visas

For U.S. employers, the suspension of entry to the United States has the potential to impact workforces, as does an employer’s reluctance to permit its employees to go abroad for visa renewals and extensions of the employee’s work authorization. Employers should review their employees’

situations to determine if the travel advisory to China or the suspension of entry to the United States affects its workforce.

If your work force may be impacted, advanced planning to avoid gaps in work authorization and periods of authorized stay is imperative. For example, if an employee needs to go abroad to renew work authorization and he or she would have ordinarily traveled to China to do so, one solution may be to encourage the employee to visit another U.S. embassy or consulate for the nonimmigrant visa appointment. An alternative solution is to file an extension of nonimmigrant status with United States Citizenship and Immigration Services (USCIS), which also provides continued work authorization, if timely filed.

Prior to filing petitions with USCIS or encouraging employees to go abroad for visa renewals, it is important to distinguish whether the employee's visa (inside their passport) expires but not their authorization to continue to remain present in the U.S. and in a work-authorized capacity. In some instances, an employee's visa is limited to a shorter duration than their period of authorized stay. However, so long as an employee is in a period of authorized stay, there is no legal requirement the actual visa remain valid while present in the U.S.

Limiting Business Travel

Businesses should suspend all non-essential travel to China, pending further developments. On Feb. 2, 2020, the Department of State ("State Department") issued a [Level 4: Do Not Travel Warning](#) for any travel to China. Most commercial air carriers have reduced or suspended travel routes to and from China. Employees who travel to China are at risk for contracting COVID-19 and may not be able to return to the U.S. due to travel restrictions and lack of transport.

As always, employers should monitor the State Department travel warnings to determine if travel to any other countries or regions is inadvisable and keep employees apprised of developments in areas where they work or travel. Employers should be considerate of any employee objections to travel due to health and safety concerns. Employee concerns about the safety of their workplace may be protected under the National Labor Relations Act and the Occupational Safety and Health Act. Employers should give special consideration to concerns from employees whose health may be vulnerable, including employees with autoimmune diseases, or employees who may be older or pregnant. However, employees can only refuse to work when a realistic threat is present.

Employment Decisions

According to the CDC, the incubation period for influenza is one to four days, and the incubation period for the coronavirus is 1-14 days. Affected individuals may be contagious for several days after the onset of symptoms. As such, employers should take precautions to prevent the spread of disease in the workplace, and encourage employees to stay home from work when they have been exposed to influenza or COVID-19 or are showing symptoms of illness. Employers can ask employees if they are feeling ill but generally cannot require employees to undergo medical screening or make unnecessary medical inquiries.

If an employee has recently traveled to China, especially the Wuhan region, employers can consider asking the returning employee to work from home or place the employee on a paid leave until the incubation period is complete. Employers considering such an option should consider the destination of employees' travel, the duration of travel, the date of the travel, and the employee's condition. Employers should defer to relevant medical guidance and be respectful of any government-imposed

travel restrictions. Employers should be cognizant of relevant laws and refrain from singling out employees based on national origin, race, ethnicity, age, disability, or pregnancy or engaging in medical inquiries that are not job-related or consistent with business necessity.

We also encourage employers to take the following steps:

- Educate employees on call-off procedures, sick leave availability, and other company-provided resources (including benefits and services, such as flu vaccines);
- Make sure your policies comply with relevant OSHA standards for the use of personal protective equipment and transmission of blood-borne pathogens;
- Encourage employees to follow good hygiene practices, such as washing their hands, and provide hand sanitizer stations and tissues;
- Clean and disinfect frequently touched objects and surfaces;
- Assist employees who are impacted by travel restrictions and assist with visa renewals;
- Avoid offering medical opinions or relying on information that does not come from a reliable government source, such as the CDC;
- Enforce and apply all policies in a non-discriminatory way;
- Be thoughtful of requirements under the Americans with Disabilities Act (ADA), Title VII of the Civil Rights Act (Title VII), the Pregnancy Non-Discrimination Act (PDA), the Age Discrimination and Employment Act (ADEA), the Genetic Information Nondiscrimination Act (GINA), the National Labor Relations Act, Occupational Safety and Health Act (OSHA), Family Medical Leave Act (FMLA) and Health Insurance Portability and Accountability Act (HIPAA); and
- Seek further legal guidance when necessary.

© 2024 Dinsmore & Shohl LLP. All rights reserved.

National Law Review, Volumess X, Number 50

Source URL: <https://www.natlawreview.com/article/2019-novel-coronavirus-flu-what-employers-need-to-know-quarantines-and-preventing>