

[Employers Begin Confronting Their Obligations as Coronavirus Spreads](#)

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This article provides practical guidance regarding how employers should address legal issues raised by the coronavirus. As the coronavirus spreads around the globe and cases are appearing in the United States, employers have begun confronting issues in the workplace concerning risks to their employees.

Business Travel

Employers should consider suspending all nonessential business travel to China and other countries with the greatest number of infected (such as Korea, Italy, and Iran). For employees who cannot avoid business trips, employers must make certain that their workers understand all possible risks involved. Furthermore, if a worker has a health condition and informs the employer of it, there is a risk that the employer will violate the Americans with Disabilities Act (ADA), 104 Stat. 327, if they force the employee to go on the trip.

When workers return from trips to China, employers should generally ask them to work from home for at least 14-day incubation period of the disease. This is particularly easy to do for white collar businesses, such as finance, tech, and insurance.

For businesses who do this, it is advisable to create a paper trail clearly explaining why this was necessary. Otherwise, other employees whose jobs require them to be onsite and for whom travel is not a part of their jobs might later file a claim under the ADA that they were not offered telework opportunities due to the coronavirus outbreak. The paper trail for employees who traveled will serve as clear evidence supporting the necessity of telework for the employees who went to areas where coronavirus exposure was a strong possibility.

Health and Safety Policies

In general, employers should establish clear policies for dealing with health issues related to the coronavirus and otherwise. The Centers for Disease Control and Prevention (CDC) has convenient question and answer sheets for this purpose that employers can post prominently so that employees have information long before a pandemic or health emergency breaks out. For information on the coronavirus generally, see [“What you need to know about coronavirus disease 2019 \(COVID-19\).”](#) For information on dealing with coronavirus illness, see [“What to do if you are sick with coronavirus disease 2019 \(COVID-19\).”](#) Employers should also provide education about their health policies as part of their notices about seasonal flu.

The ADA forbids employers from requiring medical exams in general, but there are certain exceptions for employers who pose a “direct threat to the health or safety” of others. Employers could require workers returning from China to obtain a medical clearance before returning to the workplace, if the exam is narrowly tailored to the purpose of contagion and does not involve questions about any other medical conditions.

Consider Labor Laws

An employer may not wish for its employees to wear face masks at the workplace when they are interacting with customers. However, if a group of workers get together and decide that they are going to wear them, their decision

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would likely be considered protected concerted activity under the National Labor Relations Act, [29 U.S.C. § 151 et seq.](#), which applies to union and nonunion workplaces.

Privacy Issues

A potential pitfall for employers is the protection of employees' health information. Naturally, workers are going to be concerned about working in proximity of others who have been travelling to places affected by coronavirus. HR officials who are trying to quell their fears must take care not to single out any particular person and say anything like, "We're going to have him screened," and instead, assure people that all steps will be taken to ensure safety with anyone who travels. If a worker is diagnosed with the coronavirus, employers should not involve themselves in the medical care or condition of other employees. It is likely that the department of public health or the CDC will come in and assess the possibility of exposure.

In short, developments are happening very quickly, and employers should keep on top of new information so that they can adjust their policies as necessary and make sure that they are doing at least the minimum to keep their employees safe and otherwise comply with the law.

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Checklists

- [Telecommuting Employees: Best Practices Checklist](#)

Forms

- [Workplace Safety Policy](#)
- [Emergency Response Procedures](#)
- [Injury & Illness Prevention Model Program for Workplace Safety \(California\)](#)