

## Coronavirus Information and FAQs

This document and the FAQs are intended to provide you with general information about the novel coronavirus, including how it is transmitted and how you can prevent infection. It does not constitute legal advice on this topic.

This document is not intended to be exhaustive, and we encourage you to supplement your knowledge of coronavirus by visiting the website of the [Centers for Disease Control and Prevention](#) (CDC).

### **What is coronavirus?**

Coronavirus is a new respiratory virus that originated in Wuhan, China. The virus is contagious and potentially fatal. It is suspected that it is transmitted through coughing and sneezing by infected individuals. At the present time, there is no vaccine, cure or specific treatment.

### **How is coronavirus spread?**

Health authorities have not confirmed how coronavirus is transmitted but suspect it is spread person-to-person. There is also evidence that the virus has been spread by animal sources, including individuals with links to seafood or animal markets. They do not believe you can get it from air, water or food.

### **How many people survive coronavirus?**

Currently, coronavirus has a fatality rate of less than 3 percent. As such, the majority of those affected so far have survived the disease.

### **What are the signs and symptoms of coronavirus?**

Individuals infected with coronavirus have displayed the following symptoms:

- Mild to severe respiratory illness.
- Fever.
- Cough.
- Difficulty breathing.
- Death.

### **How infectious is coronavirus?**

Virus transmission may happen on a spectrum, and authorities are not sure if the virus is highly contagious or less so. For person-to-person transmission, health authorities suspect the virus is spread through coughing and sneezing, similar to how influenza and other respiratory pathogens are spread.

The incubation period, or the time interval from infection to onset of symptoms, is from two to 14 days. During this period, an individual can be infected and spreading the disease although they may not be experiencing the signs and symptoms of the virus.

### **How can I protect myself?**

Because there is currently no vaccine to prevent infection, the best way to protect yourself is to avoid being exposed to this virus. The CDC recommends the following additional steps:

- Wash your hands often with soap and water for at least 20 seconds. Use an alcohol-based hand sanitizer that contains at least 60 percent alcohol if soap and water are not available.
- 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.

### **What happens if I suspect I or someone I know has coronavirus?**

If you exhibit symptoms of coronavirus within two weeks of traveling from China, you should contact a health care professional and mention your recent travel. If you have had close contact with someone exhibiting coronavirus symptoms who has recently traveled from China, you should call ahead to a health care professional and mention your close contact and the person's recent travel. Your health care professional will work with your state's public health department and CDC to determine if you need to be tested for coronavirus.

### **Should I consider quarantining employees, or having employees remain off work, who have recently returned from China?**

You should consider telling employees returning from China that they should remain away from work for 14 days from their return. You can also consider telling the employees to self-monitor for any symptoms of coronavirus. If any of these symptoms occur, employees should consider being evaluated by a health care provider. Further, even if not symptomatic, employees may also want to consult a health care provider to confirm that they are not infectious before returning to work.

### **Should I consider providing information to my employees about the coronavirus?**

Yes. Information is available at no cost on the [CDC's website](#).

### **Can I restrict employees from traveling to China?**

Employers may consider restricting employee travel to the particular areas affected by the disease for business purposes. Employers may also consider requesting that employees inform them if they are traveling for personal reasons so the employer is aware of employees who are going to those areas and are exposed to the disease. Employees who travel to China need to be informed that they may be quarantined upon their return. Employees should also be informed that there may not be adequate medical services available if they travel to China and become ill.

### **Does Family and Medical Leave Act (FMLA) leave apply for employees or immediate family members who may contract coronavirus?**

Yes, assuming that the FMLA applies to the employer, coronavirus would qualify as a "serious health condition" under FMLA, allowing an employee to take FMLA leave if either the employee or an immediate family member contracts the disease. The employee would be entitled to job reinstatement as well. State law may provide additional leave benefits.

### **Would I need to pay workers' compensation for employees who contract coronavirus?**

Perhaps, if the employees contracted the disease in the course of their employment. Does the employees' work require them to be exposed to persons who are infected? Typically, health care workers fall into this category. If an employee incidentally contracts the disease from a co-worker, there likely will be no workers' compensation liability. If there is workers' compensation liability, employers are responsible for covering the costs of reasonable and necessary medical care, temporary total disability benefits, and permanent disability (if any). Employers should engage a competent medical professional on infectious diseases for advice to determine whether the disease is work-related.

### **Would I need to pay my employees disability benefits if they contract the coronavirus?**

Yes, if such payments are provided in an employer's benefit plan. Employers should review the limits of coverage in the benefit plan to ensure they have competent medical resources to administer the program.

### **Does the Americans with Disabilities Act (ADA) restrict how I interact with my employees due to the coronavirus?**

Not if it's a pandemic. The ADA protects employees with disabilities, but during a global health emergency, as recently declared by the World Health Organization (WHO), employees can be required to be medically examined to determine if they have contracted the disease when an employer has a reasonable belief that employees will pose a direct threat due to a medical condition. WHO raised its risk assessment of the coronavirus to its highest level on Feb. 28, [according to CNBC](#).

The Equal Employment Opportunity Commission has [issued guidance](#) to distribute to the workforce in the event of global health emergency. In the guidance, it states, "if the CDC or state or local public health authorities determine that the illness is like seasonal influenza or the 2009 spring/summer H1N1 influenza, it would not pose a direct threat or justify disability-related inquiries and medical examinations. By contrast, if the CDC or state or local health authorities determine that pandemic influenza is significantly more severe, it could pose a direct threat. The assessment by the CDC or public health authorities would provide the objective evidence needed for a disability-related inquiry or medical examination."

The ADA protects qualified employees with disabilities from discrimination. A disability may be a chronic physical condition, such as difficulty breathing. Employees may be entitled to an "accommodation" such as leave or be allowed to work remotely for a limited period. Employees who have contracted the virus must be treated the same as noninfected employees, as long as the infected employees can perform their essential job functions. If the employee poses a health or safety threat to the workforce, the employer may place the employee on leave.

### **Has the Occupational Safety and Health Administration (OSHA) provided guidance on how to handle coronavirus?**

OSHA has issued a fact sheet regarding protecting workers in the case of a global health emergency. Employers should train employees on the following:

- Differences between seasonal epidemics and worldwide pandemic disease outbreaks.
- Which job activities may put them at risk for exposure to sources of infection.
- What options may be available for working remotely, or how to utilize an employer's flexible leave policy when employees are sick.
- Social distancing strategies, including avoiding close physical contact (e.g., shaking hands) and large gatherings of people.
- Good hygiene and appropriate disinfection procedures.
- What personal protective equipment is available, and how to wear, use, clean and store it properly.
- What medical services (e.g., post-exposure medication) may be available to them.
- How supervisors will provide updated pandemic-related communications, and where employees should direct their questions.

**Can OSHA cite an employer for exposing my workforce to coronavirus without protective measures?**

Perhaps. OSHA regulates safety hazards through its "general duty" clause that applies to "recognized hazards" in the workplace. OSHA will look to the CDC as the authority when issuing such citations. The agency will determine whether the employer's industry knows that exposure to infected individuals in the workplace is a hazard. If so, the agency would expect the employer to take feasible measures to protect the employees and, if it not does not take such action, the employer could be subject to citation. Employers should conduct a hazard assessment for potential exposures and develop an action plan that includes hazard identification, hazard prevention procedures, employee training, medical monitoring surveillance and recordkeeping.

**Would I need to pay employees who go on leave during a quarantine period or because they have contracted coronavirus?**

Perhaps. The employee may be required to be paid if the employee is subject to a contract or collective bargaining agreement that requires pay when employees go on work-required leave. In the absence of a contract, hourly employees work at-will and are not guaranteed wages or hours. In other words, these employees do not need to be paid. Exempt employees do not have to be paid if they are sent home for an entire workweek. However, if exempt workers work for part of the workweek, they would have to be paid for the entire week.

**Should I consider quarantining employees who have traveled to countries near China, such as India or Japan, or who may have traveled with individuals from China on a plane or other carrier?**

At the time of publication, no. Employers should consult the CDC and WHO for the most up-to-date information on quarantining employees from countries in close proximity to China. For those who have traveled with individuals with exposure to China or the virus, employers should consider having such employees screened by a health care provider before allowing them back to work.

**How long can the coronavirus live outside the human body?**

It can vary. Similar viruses can live for a few hours, depending on the hardness of the surface the virus is on, as well as ambient air conditions. The harder the surface, the longer the virus can survive.

**What obligations exist to notify or negotiate with a union regarding coronavirus policies, including leave due to quarantine?**

It depends on the terms of any collective bargaining agreement. There may be an obligation to negotiate with a union regarding the quarantine policies because they affect the terms and conditions of employment, which include wages and hours at work. Depending on the management rights clause in the

contract, an employer may be able to send the employee home but may still have to pay the employee based on the union rights clause.

**Should I ask for a doctor's note for an employee returning from a quarantine period who otherwise reports being asymptomatic?**

While we would recommend obtaining a doctor's note, sometimes it is difficult for certain individuals to have access to medical providers. We would recommend the employee go to an urgent care facility if one is available to at least be screened for infection.

**Is there an obligation to accommodate employees who do not want to work in public-facing positions due to risk of infection?**

There may be an obligation to accommodate such employees if there is some objective evidence that they could potentially be exposed to individuals who may have returned from China—for example, airport employees who deal with travelers from China. Employees should not be disciplined for refusing to work if they believe that there is a risk of infection because making such a complaint may be a protected activity. If the employer can establish that there is no basis for any exposure to the disease, the employee does not have to be paid during the time period the employee refuses to work.

**Conclusion**

The foregoing information is provided based on currently known information. The progress of this disease is constantly evolving. The foregoing information is subject to change based on such evolving information. If you have any questions regarding this matter, please contact Mark A. Lies II ([mlies@seyfarth.com](mailto:mlies@seyfarth.com); 312-460-5877) or Daniel Birnbaum ([dbirnbaum@seyfarth.com](mailto:dbirnbaum@seyfarth.com); 312-460-5129).