



What Employers Need To Know About Coronavirus Travel Restrictions

Insights

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In light of the coronavirus outbreak in China, President Trump issued [a Presidential Proclamation](#) limiting the entry of most foreign nationals who were physically present in China during the 14-day period before their attempted entry into the United States. This travel restriction took effect at 5:00 PM ET on February 2. Below are details for employers to understand your obligations and best practices during this time.

Q: Does this order apply to those visiting Taiwan, Hong Kong, and Macau?

A: No. It only applies to those who were present in the People's Republic of China, and specifically exempts Hong Kong and Macau. In addition, the U.S. immigration law and various other regulations treat Taiwan (a.k.a. Republic of China) separately from the People's Republic of China. Therefore, Hong Kong, Macau, and Taiwan are all exempt from these travel restrictions.

Q: Most media outlets generally report that these travel restrictions apply to foreign nationals with some exceptions, but who exactly are exempt?

A: The order provides a long list of exempt immigration statuses. For example, people traveling on crew member visas, or diplomatic or International Organization visas are exempt. It also exempts Lawful Permanent Residents (green card holders), spouses and children (unmarried under 21) of U.S. citizens and green card holders, and parents and siblings of unmarried under 21-year-old U.S. citizens and green card holders. The proclamation also includes a provision that permits entry of any foreign national whose entry would not pose a significant risk of spreading the virus, as determined by the CDC. This provision would appear to allow anyone to otherwise seek entry. However, in reality, U.S. Customs and Border Protection may simply utilize the travel restriction rules to deny entry instead of deferring to the CDC's conclusion.

Q: Does this mean that the U.S. consulates will deny all visa applications filed in China in those non-exempt categories?

A: The State Department has not yet made specific announcements. However, some U.S. consulates in China have already postponed interview scheduling. A blanket visa denial rule is unlikely, however, because the terms of this order make it permissible to depart China, remain in a third country for 14 days, and then lawfully seek entry into the U.S.

Q: If my foreign national employee is subject to these travel restrictions, what are my options to get them back to the U.S. as soon as possible?

A: This will be a case-by-case analysis, but most likely the employee will have to consider going to a third country, remain in that third country for at least 14 days, and then proceed to the U.S. This may require extra planning, such as dealing with a visa to go to the third country. In addition, when several other countries have started to implement similar travel restrictions, the situation remains in flux. It is also unclear if the administration would expand this order to include more countries and regions depending on the ongoing situation of the outbreak.

Q: What will happen to my foreign national's immigration status if they are stuck outside the U.S.?

A: Generally speaking, U.S. immigration law only applies to a foreign national when that person is physically in the country. In most situations, a person is not considered to have failed to maintain lawful immigration status if they are not physically in the U.S. The employee's absence from the U.S., however, could trigger other collateral immigration issues. It is important to seek specific legal advice for each impacted case.

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