

Title VII Reminder: Coronavirus No Excuse for National Origin Discrimination

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By [Katherine Dudley Helms](#)



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As the 2019 Novel Coronavirus (2019-nCoV) outbreak continues to develop, a number of workplace issues have arisen, including issues of quarantine, medical testing, and pay, and proactive employers are taking steps to protect and educate their employees. This sensible approach would seem to be well-founded: though the U.S. Centers for Disease Control and Prevention (CDC) is closely monitoring the evolving threat posed by coronavirus, the CDC has stated that the virus's risk to the U.S. public remains low at this time.

Nevertheless, one can almost feel the level of concern beginning to grow in workplaces as employees demand that individuals who have been to China be restricted from work or that they not be required to work with such persons. Because the virus originated in Wuhan, China, many of the individuals affected are of Chinese origin.

The CDC has issued the [following instruction](#): “Do not show prejudice to people of Asian descent, because of fear of this new virus. Do not assume that someone of Asian descent is more likely to have 2019-nCoV.”

Title VII of the Civil Rights Act of 1964 prohibits employment discrimination on the basis of “race, color, religion, sex and national origin.” National origin discrimination involves treating people (applicants or employees) unfavorably because they are from a particular country or part of the world, or because they appear to be of a certain ethnic background. It can also involve people being treated unfavorably because

they are married to (or associated with) a person of a certain national origin. Discrimination can occur even among people of the same national origin.

What this means is that employers cannot on the basis of national origin select employees for disparate treatment. As more cases of coronavirus are confirmed, employers may want to pay attention to any concerns that Chinese employees are being subjected to disparate treatment or harassed in the workplace on the basis of national origin. (An example might be that certain employees are avoiding other employees because of their national origins.) If an employer has sufficient reason to bar a certain employee from the workplace, it cannot be because of national origin; however, if that employee, no matter his or her race or national origin, was recently in Wuhan and/or has shown symptoms of the virus, a legitimate reason may exist.

Employees may exhibit fear for reasons that are unrelated to coronavirus and are based solely on national origin and/or race. With this in mind, when an employer is educating employees about coronavirus, its symptoms, and the proper workplace precautions, it may be worth considering how to frame the communications to emphasize that national origin discrimination and/or harassment is inappropriate and will not be tolerated.

Ogletree Deakins' coronavirus team has covered various aspects of the virus, including an [overview of recent developments](#), [tips from a workplace safety perspective](#), and its effects on [international employers](#).



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