

SEIU Legal Department - 3/24/2020
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ANNOTATED CHECKLIST OF ISSUES AND RESOURCES FOR SEIU LOCAL UNION COUNSEL

**This checklist was created by the SEIU Legal Department
for use by SEIU local unions and their counsel.**

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A. General Public Health Information on COVID-19

CDC Information and guidance:

- Main page: <https://www.cdc.gov/coronavirus/2019-ncov/index.html>
 - Contains information about the disease (how it spreads; symptoms; prevention and treatment; FAQs; etc.); updates on case counts and locations; and information targeted to specific audiences including schools and healthcare professionals (more below)
- Information for healthcare professionals: <https://www.cdc.gov/coronavirus/2019-ncov/hcp/index.html>
 - Contains specific guidance for clinical care workers; homecare workers; healthcare personnel with potential exposure; and evaluating and reporting persons under investigation; etc.
- Preventing COVID-19 spread in communities: <https://www.cdc.gov/coronavirus/2019-ncov/community/index.html>
 - Contains specific guidance for K12 schools; childcare programs; and colleges and universities; and businesses and employers generally (more below)
- Interim guidance for businesses and employers: <https://www.cdc.gov/coronavirus/2019-ncov/community/guidance-business-response.html>
 - Guidance on planning and on actions with respect to sick employees.

Directory of Local Health Departments: <https://www.naccho.org/membership/lhd-directory>

HIPAA guidance for healthcare workers: <https://www.cdc.gov/>

[/2019-ncov/community/index.html](https://www.cdc.gov/2019-ncov/community/index.html)

- HHS Bulletin reminding HIPAA-covered entities that the HIPAA Privacy Rule remains in effect during the outbreak, but that protected health information may be shared under certain circumstances to treat a patient, to protect public health, and for other critical purposes.

Deleted: coronavirus

B. Collective Bargaining Agreements

- Request information about employer plans to protect workers, address scenarios and issues
- Seek meetings to discuss employer preparation and plans
- Activate Health & Safety or similar Committees on preventative measures
- Check CBAs, particularly in healthcare, for provisions dealing with outbreaks, infectious diseases, quarantines, etc.
- Review CBA provisions addressing key employee protection, economic security and benefit concerns, including scheduling, telecommuting/remote work arrangements, sick leave/family leave and other leave provisions, short-term disability benefits, reporting pay, closures/layoffs/furloughs, etc.
- Review CBA provisions on Management Rights/Force Majeure, develop potential arguments (affirmative/defensive) relating to impact of asserted "emergency" or "Act of God" conditions

on CBA compliance. *See, e.g.*, overview and authorities discussed in Elkouri & Elkouri, **How Arbitration Works**, Chapter 13, pp. 13-111 through 13-116 (9th Ed. 2016)

- Demand bargaining and seek special emergency agreements over COVID-19 related quarantine/closure/layoff/furloughs/reduced hours, etc., including employer no-contest to affected workers' claims for Unemployment Compensation and other public benefits.
- Note that the fact that governmental mandates imposed during the COVID-19 emergency may dictate or constrain an employer's business/operational decisions should not *per se* relieve the employer from its duty to bargain over the "effects" on employees, which can include the way in which a given mandate will be satisfied as well as redress for adversely affected employees, etc.



C. Federal/State Law

OSHA guidance relating to COVID-19:

- Special publication entitled "**Guidance on Preparing Workplaces for COVID-19**" (OSHA 3990-03 2020): <https://www.osha.gov/Publications/OSHA3990.pdf>
- Main page: <https://www.osha.gov/SLTC/covid-19/index.html>
 - Overview of COVID-19 and links regarding particular OSHA standards and particular industries (more below)
- Standards potentially relevant to COVID-19: <https://www.osha.gov/SLTC/covid-19/standards.html>
 - Links and information regarding OSHA's Personal Protective Equipment (PPE) and Bloodborne pathogens standards, as well as the General Duty Clause
 - Links to the 28 OSHA-approved state plans. State Plans are required to have standards and enforcement programs that are at least as effective as OSHA's and may have different or more stringent requirements.
- Interim guidance for healthcare workers: <https://www.osha.gov/SLTC/covid-19/controlprevention.html#health>
 - Discusses engineering controls, administrative controls, safe work practices, and PPE for healthcare workers with potential occupational exposure, and well as specific guidance relating to cleaning and disinfection and for homecare of confirmed or suspected COVID-19 patients.
- Under Section 11(c) of the OSH Act, workers may be protected from retaliation for refusing, under certain circumstances, to perform work that would subject them to serious injury or death arising from a hazardous condition at the workplace. See 29 C.F.R. § 1977.12(b)(2), <https://www.osha.gov/laws-regs/regulations/standardnumber/1977/1977.12>

Where the employee, "with no reasonable alternative, refuses in good faith to expose himself to the dangerous condition, he would be protected against subsequent discrimination. The condition causing the employee's apprehension of death or injury must be of such a nature that a reasonable person, under the circumstances then confronting the employee, would conclude that there is a real danger of death or serious injury and that there is insufficient time, due to the urgency of the situation, to eliminate the danger through resort to regular statutory enforcement channels. In addition, in such circumstances, the employee, where possible, must

also have sought from his employer, and been unable to obtain, a correction of the dangerous condition.”

- NOTE: The AFL-CIO has formally petitioned OSHA for an emergency standard to protect workers from COVID-19 (and other infectious diseases), noting deficiencies in existing OSHA standards: <https://aflcio.org/statements/petition-secretary-scalia-osha-emergency-temporary-standard-infectious-disease>

ADA guidance:

- 2009 EEOC guidance for employers on pandemic preparedness issued in response to the H1N1 outbreak: https://www.eeoc.gov/facts/pandemic_flu.html
 - EEOC summary of pertinent ADA provisions:
The ADA, which protects applicants and employees from disability discrimination, is relevant to pandemic preparation in at least three major ways. *First*, the ADA regulates employers' disability-related inquiries and medical examinations for all applicants and employees, including those who do not have ADA disabilities. *Second*, the ADA prohibits covered employers from excluding individuals with disabilities from the workplace for health or safety reasons unless they pose a “direct threat” (i.e. a significant risk of substantial harm even with reasonable accommodation). *Third*, the ADA requires reasonable accommodations for individuals with disabilities (absent undue hardship) during a pandemic.
 - Guidance covers when disability-related inquiries and medical examinations are permissible; the “direct threat” standard (“a significant risk of substantial harm to the health or safety of the individual or others that cannot be eliminated or reduced by reasonable accommodation.”); and the “reasonable accommodation”/“undue hardship” standard.
 - Guidance confirms that “employees with disabilities that put them at high risk for complications” of pandemic are entitled to reasonable accommodation, and, specifically, “may request telework as a reasonable accommodation to reduce their chances of infection during a pandemic.”
 - Guidance also includes a helpful Q&A section covering topics including when an employer can send a sick employee home; whether it may encourage telework; whether it may require infection control practices or use of personal protective equipment; and what employers may ask employees regarding medical information.
 - Also includes links to related EEOC guidance including:
 - Disability-Related Inquiries & Medical Examinations: <http://www.eeoc.gov/policy/docs/guidance-inquiries.html>
 - Reasonable Accommodation and Undue Hardship Enforcement Guidance: <http://www.eeoc.gov/policy/docs/accommodation.html>
 - Telework as a Reasonable Accommodation: <http://www.eeoc.gov/facts/telework.html>



FMLA guidance:

- DOL main page: <https://www.dol.gov/agencies/whd/fmla>
- As a reminder, the FMLA provides 12 weeks of unpaid, job-protected leave in any 12-month period for, among other things, a serious health condition that makes the employee unable to perform the essential functions of his or her job or to care for the employee’s spouse, child, or

parent who has a serious health condition. FMLA leave may run concurrently with paid leave from other sources.

- FAQs are here: <https://www.dol.gov/agencies/whd/fmla/faq>

State FMLA laws:

- Survey of state FMLA laws (California, Connecticut, District of Columbia, Massachusetts, New Jersey, New York, Rhode Island, Oregon, Washington) by National Partnership (August 2019): <https://www.nationalpartnership.org/our-work/resources/economic-justice/paid-leave/state-paid-family-leave-laws.pdf>
- Links to state labor agencies administering state FMLA laws: <https://www.dol.gov/agencies/whd/state/fmla>

Paid sick leave/disability insurance laws:

- Twelve states (AZ, CA, CT, MD, MA, MI, NV, NJ, OR, RI, VT, WA) and Washington DC currently require some form of paid sick leave: <https://www.ncsl.org/research/labor-and-employment/paid-sick-leave.aspx>; <https://www.nationalpartnership.org/our-work/resources/economic-justice/paid-sick-days/paid-sick-days-statutes.pdf>
- At least 18 cities and counties also require some form of paid sick leave: <https://www.nationalpartnership.org/our-work/resources/economic-justice/paid-sick-days/paid-sick-days-statutes.pdf>
- **Short-term disability benefits** may also be available in some states:
 - California State DI program: <https://www.edd.ca.gov/disability/>

Workers compensation:

- State workers' compensation laws generally provide for medical care and temporary disability benefits in the event of work-related injuries. By contrast to on-the-job accidents, workers who become ill aren't presumptively entitled to workers' compensation benefits. Rather, state workers' comp laws typically require employees to prove they contracted their illness in the course and scope of their employment, and that the illness was caused by a hazard recognized as peculiar to that employment.
- Some state laws exclude coverage for contagious diseases resulting from exposure to fellow employees, or from a hazard to which the ill employee would have been equally exposed outside of his or her employment (e.g., common cold, flu, other epidemics).
- Healthcare workers, nursing home staff and other employees with heightened exposure to the current epidemic are not *per se* excused from such causation requirements, coverage exclusions, and standard rules for obtaining benefits. But those who contract COVID-19 after caring for (or exposure to) patients, residents or customers diagnosed with COVID-19 could have a strong basis for a claim. Remember the fundamentals: accurate and properly documented medical diagnosis, prompt notice to the employer, timely filing of claims.
- Some state laws expressly provide coverage for certain known occupational diseases (for example, tuberculosis or hepatitis for health care workers and other professionals customarily exposed to the hazard; lead or arsenic poisoning for employees working with toxic substances).

While COVID-19 is not yet among the occupational diseases specifically listed in existing laws, the body of relevant court decisions construing a given state's law could provide arguments to support an analogous claim for healthcare workers, nursing home staff or employees in other settings presenting a particularly high, occupationally specific risk of COVID-19 exposure.

- Washington State has clarified that COVID-19 may, under some circumstances, be recognized as a work-related condition for health care workers and first responders:
<https://lni.wa.gov/agency/outreach/workers-compensation-coverage-and-coronavirus-covid-19-common-questions>
- DOL guidance on FECA benefits for federal employees who contract COVID-19 in the course of their employment: <https://www.dol.gov/owcp/dfec/InfoFECACoverageCoronavirus.htm>
- Links to state workers comp agencies:
<https://www.dol.gov/owcp/dfec/regs/compliance/wc.htm>

Unemployment insurance (UI):

- Generally requires that an employee was separated from employment due to lack of available work and that he or she had sufficient work or earnings in a base period (typically the first four out of the last five completed calendar quarters) preceding the UI claim. Other common elements include waiting period and active search for work.
- **Updated DOL/ETA Guidance announced March 12, 2020:**
<https://www.dol.gov/newsroom/releases/eta/eta20200312-0>

“Under the guidance, federal law permits significant flexibility for states to amend their laws to provide UI benefits in multiple scenarios related to COVID-19. For example, federal law allows states to pay benefits where: (1) An employer temporarily ceases operations due to COVID-19, preventing employees from coming to work; (2) An individual is quarantined with the expectation of returning to work after the quarantine is over; and (3) An individual leaves employment due to a risk of exposure or infection or to care for a family member. In addition, federal law does not require an employee to quit in order to receive benefits due to the impact of COVID-19.”

- Comprehensive DOL survey of state UI programs (updated January 2019):
<https://oui.doleta.gov/unemploy/pdf/uilawcompar/2019/complete.pdf>
- Links to state UI programs:
<https://www.careeronestop.org/LocalHelp/UnemploymentBenefits/find-unemployment-benefits.aspx>
- Useful 2015 paper reviewing UI coverage for employees with family caregiving responsibilities:
<https://www.aarp.org/content/dam/aarp/ppi/2015/unemployment-insurance.pdf>
- In some states, UI benefits may be available to workers who are temporarily laid off or whose hours are reduced:
 - **Washington:** <https://www.esd.wa.gov/newsroom/layoff-assistance>

See emergency rule adjustments and applicable benefits comparison chart (March 10):

<https://www.governor.wa.gov/news-media/inslee-announces-support-workers-and-businesses-impacted-covid-19>
https://esdorchardstorage.blob.core.windows.net/esdwa/Default/ESDWAGOV/newsroom/COVID-19/COVID-19_Scenarios%20and%20Benefits.pdf

- California: https://edd.ca.gov/about_edd/coronavirus-2019.htm

Race, national origin and age discrimination:

- In the context of the COVID-19 outbreak there have been reports of profiling and other forms of discrimination in various contexts against Chinese Americans (and people perceived as such) as well as against people of Asian descent generally.
- It is important to remember that normal antidiscrimination laws and rules (e.g., Title VII, state analogues) apply to employees who experience adverse or differential treatment related to their actual or perceived race, ethnicity or other protected category.
- EEOC resources on race discrimination: https://www.eeoc.gov/laws/types/race_color.cfm
- EEOC resources on national origin discrimination: <https://www.eeoc.gov/laws/types/nationalorigin.cfm>
- EEOC resources on age discrimination: <https://www.eeoc.gov/laws/types/age.cfm>
- Department of Education statement on discrimination against students: <https://content.govdelivery.com/accounts/USED/bulletins/27f5130>
- CDC guidance on stigma, including against persons of Asian descent, recent travelers, and healthcare professionals: <https://www.cdc.gov/coronavirus/2019-ncov/about/related-stigma.html>

Protected, concerted activity over unsafe conditions:

- **NLRA Section 7:** *NLRB v. Washington Aluminum Co.*, 370 U.S. 9 (1962) (Section 7 protected concerted walkout by unrepresented employees protesting uncomfortably cold workplace)
- **LMRA Section 502:** The statute's "savings clause," 29 U.S.C. § 143, provides that "the quitting of labor by an employee or employees in good faith because of abnormally dangerous conditions for work at the place of employment of such employee or employees [shall not] be deemed a strike" under the statute. See *Gateway Coal Co. v. United Mine Workers of Am.*, 414 U.S. 368 (1974).

Emergency declarations:

- In general, such declarations by governors and at the federal level free up funds and allow for suspension of executive branch rules and regulations.
- Federal National Response Framework: https://www.fema.gov/media-library-data/1582825590194-2f000855d442fc3c9f18547d1468990d/NRF_FINALApproved_508_2011028v1040.pdf
- Overview of state emergency declarations: <https://www.cnn.com/2020/03/10/politics/state-of-emergency-meaning-explained/index.html>
- State emergency declarations:
 - California: <https://www.gov.ca.gov/wp-content/uploads/2020/03/3.4.20-Coronavirus-SOE-Proclamation.pdf>
 - New York: <https://www.governor.ny.gov/news/no-202-declaring-disaster-emergency-state-new-york>

Department of Education resources: <https://www.ed.gov/coronavirus?src=feature>

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- Interim guidance for higher education administrators: <https://www.cdc.gov/coronavirus/2019-ncov/community/guidance-ihe-response.html>
- Interim guidance for childcare/K-12 administrators: <https://www.cdc.gov/coronavirus/2019-ncov/specific-groups/guidance-for-schools.html>

D. Immigration Issues

Immigrants' Access to Healthcare resources:

- There is no federal, state, or local law that prevents immigrants, including those who are not lawfully present (or undocumented) from accessing health care services.¹ Nor is there any law that prevents health care providers from treating individuals without lawful immigration status or prevents health insurance companies from selling health coverage to individuals without immigration status.²
- Immigrants and mixed-status families should not forego medical treatment for fear of immigration enforcement or disclosure of immigration status.
 - See for eg., Scott J. Schweikart, JD, MBE, Should Immigration Status Information Be Considered Protected Health Information? (Jan. 19, 2019), AMA J Ethics. 2019;21(1):E32-37. doi: 10.1001/amajethics.2019.32. <https://journalofethics.ama-assn.org/article/should-immigration-status-information-be-considered-protected-health-information/2019-01>
- Immigrants' Access to Healthcare know your rights resources:
 - National Immigration Law Center, Update on Access to Health Care for Immigrants and Their Families (March 18, 2020) <https://www.nilc.org/issues/health-care/update-on-access-to-health-care-for-immigrants-and-their-families/>
 - National Immigration Law Center, HEALTH CARE PROVIDERS AND IMMIGRATION ENFORCEMENT: Know Your Rights, Know Your Patients' Rights <https://www.nilc.org/wp-content/uploads/2017/04/Protecting-Access-to-Health-Care-2017-04-17.pdf>
 - Protecting Immigrant Families, YOU HAVE RIGHTS: PROTECT YOUR HEALTH - GOING TO THE DOCTOR <https://protectingimmigrantfamilies.org/wp-content/uploads/2020/02/You-Have-Rights-Protect-Your-Health-Updated-February-2020-ENGLISH.pdf>

Immigration Enforcement and Access to Healthcare:

¹ Sonal Ambegaokar, Opportunities for Maximizing Revenue and Access to Care for Immigrant Populations, <file:///H:/Legal%20Dept%20General/Coronavirus/Access%20to%20Care%20for%20Immigrant%20Populations.pdf>

² Id.

- Pursuant to Department of Homeland Security (DHS), U.S. Immigration and Customs Enforcement (ICE) guidance, absent exigent circumstances, immigration enforcement should not take place at “sensitive locations” which include: Medical treatment and health care facilities, such as hospitals, doctors’ offices, accredited health clinics, and emergent or urgent care facilities.
 - Sensitive Locations Memo –<https://www.ice.gov/doclib/ero-outreach/pdf/10029.2-policy.pdf>
 - See also <https://www.ice.gov/ero/enforcement/sensitive-loc>
- The U.S. Customs and Border Protection (CBP) agency has a similar guidance that attempts to limit enforcement at hospitals.
https://foiarr.cbp.gov/docs/Policies_and_Procedures/2013/826326181_1251/1302211111_CBP_Enforcement_Actions_at_or_Near_Certain_Community_Locations_%7BSigned_M.pdf
It should be noted that notwithstanding this ICE and CBP guidance that the Trump Administration has at times ignored these policies and/or has narrowly applied this guidance.
- **On March 18, 2020, ICE announced that it was temporarily suspending immigration enforcement based on the ongoing COVID-19 pandemic response.** ICE’s operations will focus on individuals who pose a substantial risk to public safety and have committed crimes. ICE confirmed that it would comply with its sensitive locations policy and not conduct enforcement actions “at or near health care facilities, such as hospitals, doctors’ offices, accredited health clinics, and emergent or urgent care facilities, except in the most extraordinary of circumstances.” ICE also stated that “[i]ndividuals should not avoid seeking medical care because they fear civil immigration enforcement.”
<https://www.ice.gov/news/releases/updated-ice-statement-covid-19>
- On March 16, 2020, [ICE issued guidance](#) related to COVID-19. The ICE guidance states that it does not conduct enforcement operations at medical facilities, “except under extraordinary circumstances.” ICE also reinforced that it directs its officers not to conduct enforcement operations at sensitive locations – “to include schools, places of worship, and health care facilities, such as hospitals, doctors’ offices, accredited health clinics, and emergent or urgent care facilities – without prior approval for an exemption, or in exigent circumstances.” The ICE guidance provides information about enforcement, check-ins, and other issues including detention and removal related to COVID-19. <https://www.ice.gov/covid19>

Federal Government Immigration Actions related to COVID-19:

- **Northern and Southern Border Closures:** To help stop the spread of the coronavirus, the Trump Administration announced agreements with Canada and Mexico to restrict non-essential travel at points of entry at the Northern and Southern borders. The travel restrictions went into effect on March 21, 2020. The Department of Homeland Security (DHS) published a fact sheet concerning the border closures on March 23, 2020.

<https://www.dhs.gov/news/2020/03/23/fact-sheet-dhs-measures-border-limit-further-spread-coronavirus>

- The travel restrictions applicable to **Mexico** were published in the federal register on March 23, 2020. See 85 FR 16547 <https://www.govinfo.gov/content/pkg/FR-2020-03-24/pdf/2020-06253.pdf>.

According to the notice, the temporary travel restrictions remain in place until April 20, 2020. “Essential travel” includes, but is not limited to:

- U.S. citizens and lawful permanent residents returning to the United States;
- Individuals traveling for medical purposes (e.g., to receive medical treatment in the United States);
- Individuals traveling to attend educational institutions;
- Individuals traveling to work in the United States (e.g., individuals working in the farming or agriculture industry who must travel between the United States and Mexico in furtherance of such work);
- Individuals traveling for emergency response and public health purposes (e.g., government officials or emergency responders entering the United States to support Federal, state, local, tribal, or territorial government efforts to respond to COVID-19 or other emergencies);
- Individuals engaged in lawful cross-border trade (e.g., truck drivers supporting the movement of cargo between the United States and Mexico);
- Individuals engaged in official government travel or diplomatic travel;
- Members of the U.S. Armed Forces, and the spouses and children of members of the U.S. Armed Forces, returning to the United States; and
- Individuals engaged in military-related travel or operations.

The order states that “traveling for tourism purposes (e.g., sightseeing, recreation, gambling, or attending cultural events)” is non-essential and subject to the travel restrictions.

- The travel restrictions applicable to **Canada** were published on March 24, 2020. See 85 FR 16548.

<https://www.federalregister.gov/documents/2020/03/24/2020-06217/notification-of-temporary-travel-restrictions-applicable-to-land-ports-of-entry-and-ferries-service>

- Presidential Proclamation - Suspension of Entry as Immigrants and Nonimmigrants of Certain Additional Persons Who Pose a Risk of Transmitting Coronavirus (UK and Ireland) (Mar. 14, 2020). <https://www.whitehouse.gov/presidential-actions/proclamation-suspension-entry-immigrants-nonimmigrants-certain-additional-persons-pose-risk-transmitting-coronavirus-2/>
President Trump issued a proclamation that, with some exemptions, suspends and limits the entry into the United States, as immigrants or nonimmigrants, of individuals who were

physically present within the UK and Ireland during the 14-day period preceding their entry or attempted entry.

- Presidential Proclamation—Suspension of Entry as Immigrants and Nonimmigrants of Certain Additional Persons Who Pose a Risk of Transmitting 2019 Novel Coronavirus (Mar. 11, 2020) <https://www.whitehouse.gov/presidential-actions/proclamation-suspension-entry-immigrants-nonimmigrants-certain-additional-persons-pose-risk-transmitting-2019-novel-coronavirus/>
This proclamation, effective 11:59 pm (ET) on Mar. 13, 2020, with some exemptions, suspends and limits the entry, as immigrants or nonimmigrants, of individuals who were physically present within the Schengen Area during the 14-day period preceding their entry or attempted entry. The Schengen Area is comprised of 26 European states: Austria, Belgium, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Netherlands, Norway, Poland, Portugal, Slovakia, Slovenia, Spain, Sweden, and Switzerland.
- Presidential Proclamation on the Suspension of Entry as Immigrants and Nonimmigrants of Certain Additional Persons Who Pose a Risk of Transmitting Coronavirus (85 FR 12855, 3/4/20). <https://www.federalregister.gov/documents/2020/03/04/2020-04595/suspension-of-entry-as-immigrants-and-nonimmigrants-of-certain-additional-persons-who-pose-a-risk-of>
Trump’s proclamation, with some exceptions, suspends and limits entry into the U.S., as immigrants or nonimmigrants, of persons who were physically present in Iran during the 14-day period preceding their entry/attempted entry.
- Presidential Proclamation on Suspension of Entry as Immigrants and Nonimmigrants of Persons Who Pose a Risk of Transmitting 2019 Novel Coronavirus (85 FR 6709, 2/5/20). <file:///C:/Users/monica.guizar/Downloads/20020300.pdf>
This proclamation issued on Jan. 31, 2020, suspends and limits entry into the U.S. as immigrants or nonimmigrants of all individuals who were physically present within the People’s Republic of China during the 14-day period preceding their entry or attempted entry.
- Tweet by Acting DHS Secretary Ken Cuccinelli announcing that the federal court would be suspending criminal prosecutions of federal unlawful entry under 8 USC Sec. 1325 and unlawful re-entry after deportation under 8 USC Sec. 1326a in New Mexico and unlawful entry under 8 USC Sec. 1325 in Arizona. <https://twitter.com/Haleaziz/status/1238589830415536128>

Public Charge

- On March 14, 2020, the U.S. Citizenship and Immigration Services (USCIS) issued an *alert* encouraging all individuals, regardless of immigration status, with symptoms that resemble Coronavirus Disease 2019 (COVID-19) (fever, cough, shortness of breath) to seek necessary medical treatment or preventive services. USCIS clarified that the “Public Charge rule does not restrict access to testing, screening, or treatment of communicable diseases, including COVID-19.” USCIS also clarified that the rule does not restrict access to vaccines for children or adults to prevent vaccine-preventable diseases. <https://www.uscis.gov/greencard/public-charge>

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- Trump's public charge rule went into effect on February 24, 2020. Based on the USCIS announcement of March 14, 2020, immigrants should not forego seeking medical treatment for fear of being subjected to the public charge rule.
- Resources concerning what types of benefits are included in the public charge rule:
 - <https://protectingimmigrantfamilies.org/know-your-rights/>
 - <https://protectingimmigrantfamilies.org/wp-content/uploads/2020/02/Public-Charge-Does-This-Apply-To-Me-February-2020-ENGLISH.pdf>
 - <https://protectingimmigrantfamilies.org/wp-content/uploads/2020/02/Should-I-Enroll-My-Children-in-Programs-February-2020-ENGLISH.pdf>
 - <https://iamerica.org/expanded-public-charge-rule>
- Recent MPI report showing that very few people are both eligible for public benefits and subject to the public charge rule (so in the overwhelming majority of cases, people shouldn't be scared into disenrolling from benefits): <https://www.migrationpolicy.org/news/public-charge-denial-green-cards-benefits-use>
- Free tool from Boundless to help green card applicants assess their actual risk of denial under the public charge rule, based on the true operative factors such as income, age, health, etc.: <https://www.boundless.com/public-charge-estimator/>
- Resources in tweet form, see: https://twitter.com/doug_rand/status/1235605421299306498

Resources for Immigrant Workers

- COVID-19 Resources for Undocumented Communities ("COVID-19 Recursos para Comunidades Indocumentadas")
https://docs.google.com/spreadsheets/u/1/d/18p9OSlLpSYanIoUC-gEbhVbRMYUfW4wyrxa9ekGdc/htmlview?fbclid=IwAR0IoA27CTDX9exqp6-TyQuVj68e02jtK6n6G0vWQ2TtMZdcH4ukC7NcQ4Y&urp=gmail_link#gid=0
- Spanish language website "Informed Immigrant" provides national coronavirus resources for immigrants. "Inmigrante Informado"
<https://www.inmigranteinformado.com/guides/coronavirus/>
- Spanish language Coronavirus Resources for Immigrant workers.
"Recursos Para Trabajadores Coronavirus"
<https://www.coshnetwork.org/SP-coronavirus>
- Legal Aid at Work Coronavirus Fact Sheet: Spanish language "Preguntas Frecuentes"
<https://legalaidatwork.org/factsheet/coronavirus-preguntas-frecuentes/?lang=es>
- Legal Aid at Work Relief Funds for Undocumented Workers in CA
<https://legalaidatwork.org/blog/relief-funds/>
- Los Angeles Mayor's Office of Immigrant Affairs, COVID-19 Info & Resources
<https://docs.google.com/document/d/1Wj7LZL1-nwZKkNfKtyeeZsnqUTq56KDhbRXCj9zD334/edit>
- Coronavirus Resources in Indigenous Language

<https://docs.google.com/document/d/1OxlMa5IUd-oWevoHJQ0bztHJGf79Del8gzBxmHnyEZU/edit>

Immigrant Eligibility Under the COVID-19 Relief Bills

- Protecting Immigrant Families: (PIF): Immigrant Eligibility for Public Programs During COVID-19 (Updated April 6, 2020)
<https://protectingimmigrantfamilies.org/immigrant-eligibility-for-public-programs-during-covid-19>
- NILC Fact Sheet: Understanding the Key Provisions of COVID-19 Relief Bills on Immigrant Communities (April 1, 2020) <https://www.nilc.org/wp-content/uploads/2020/04/COVID19-relief-bills-understanding-key-provisions.pdf>
- **Immigrant Worker Eligibility for Unemployment Insurance Benefits.** In most states, immigrants who are lawfully authorized to work at the time they were working and remain authorized to work while unemployed, are eligible for state unemployment insurance benefits. For example, workers in DACA or TPS status are eligible for most state unemployment insurance benefits. The CARES Act creates three additional types of pandemic unemployment insurance. It is unclear whether all work authorized immigrants, who are not “qualified immigrants” as defined by federal laws relating to federal benefits, will be eligible for the additional pandemic unemployment assistance programs.
- Resources concerning immigrant workers’ eligibility for unemployment insurance:
 - NELP Fact Sheet: Immigrant Workers’ Eligibility for Unemployment Insurance (Mar. 2020)
<https://www.nelp.org/publication/immigrant-workers-eligibility-unemployment-insurance/>

Applications to Renew Work Authorization and Changes to Verification of Employment Eligibility related to COVID-19

- **Applications to Renew Work Permits Will Be Processed.** On March 30, 2020, the US Citizenship and Immigration Services (USCIS) announced that it would continue to process applications to renew work authorization for applicants who had an appointment on or after March 18 or who filed applications to renew work authorization. USCIS announced that it will use previously submitted biometrics (i.e. fingerprints) for processing of those applications to renew work authorization requests. USCIS will continue to use previously submitted biometrics until USCIS offices are reopened for in-person services, which were closed due the COVID-19 pandemic. On April 1, 2020, USCIS announced that USCIS offices remain closed for in-person services until May 3, 2020. <https://www.uscis.gov/news/alerts/uscis-continue-processing-applications-employment-authorization-extension-requests-despite-application-support-center-closures>
- **DHS announces flexibility in requirements related to Form I-9 compliance.** On March 20, 2020, the Department of Homeland Security (DHS), Immigration and Customs Enforcement (ICE) announced that due to precautions being implemented by employers and

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employees related to physical proximity associated with COVID-19, it will exercise discretion to defer the physical presence requirements associated with the Employment Eligibility Verification process in completing the Form I-9 under Section 274A of the Immigration and Nationality Act (INA). According to ICE, employers with employees taking physical proximity precautions due to COVID-19 will not be required to review the employee's identity and employment authorization documents in the employee's physical presence. Instead, employers must inspect the Section 2 documents remotely (e.g., over video link, fax or email, etc.) and obtain, inspect, and retain copies of the documents, within three business days for purposes of completing Section 2. ICE also instructs that employers also should enter "COVID-19" as the reason for the physical inspection delay in the Section 2 Additional Information field of the Form I-9 once physical inspection takes place after normal operations resume.

<https://www.ice.gov/news/releases/dhs-announces-flexibility-requirements-related-form-i-9-compliance>

- **E-Verify Extends Timeframe for Employers to Resolve Tentative Nonconfirmations (TNC).** The US Citizenship and Immigration Services (USCIS) E-Verify announced that it was extending the timeframe to resolve Tentative Nonconfirmations (TNCs) due to SSA office closures to the public. E-Verify is also extending the timeframe to take action to resolve Department of Homeland Security (DHS) TNCs in limited circumstances when an employee cannot resolve a TNC due to public or private office closures. Employers are advised that they are not to take adverse action against an employee contesting a TNC even in the event of an extended "interim TNC" related to COVID-19.
<https://www.e-verify.gov/about-e-verify/whats-new/e-verify-extends-timeframe-for-taking-action-to-resolve-tentative>
- **Guidance for DACA Recipients Regarding DACA Renewal in Light of USCIS Office Closures Due to COVID-19.** On April 1, the USCIS announced that its offices would remain closed until May 3, 2020. <https://www.uscis.gov/about-us/uscis-office-closings> The USCIS website confirms that its staff will continue to perform duties that do not involve contact with the public. DACA recipients are encouraged to renew their status before the U.S. Supreme Court issues its decision in the DACA litigation. The following is a helpful resource for DACA recipients to renew their DACA status. <https://homeishere.us/daca-renewal-resource-directory/>