

# K-12 & Public Sector Report: Responding to the Coronavirus

K-12 & Public  
Sector

Wisconsin School Talk



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# Gallagher Report: Responding to the Coronavirus

Although there is much that we do not know about the coronavirus (COVID-19), we do know that it continues to spread and will certainly cause some amount of disruption to governmental operations, schools and communities across the U.S. The scenario will evolve over the next several months; in the meantime, public and private schools and local governments would be well advised to prepare for potential impact.

The information in this update is intended to help our K-12 education and public sector clients review applicable insurance coverage and outline actions that will assure that your organization is ready — no matter how this potential pandemic evolves. Gallagher's experts are here to support you in the review and understanding of key insurance policies and business continuity plans.

## INSURANCE POLICIES THAT MAY RESPOND

While specific policies for business loss due to a pandemic are uncommon, you should check with your insurance broker immediately to confirm what key coverages may be provided in a specific event.

### Workers' Compensation Policy

Compensability for workers' compensation will truly come down to whether the disease/illness is considered occupational. In order for it to be compensable, the disease would have to be contracted during the course of employment and due to conditions specific to an employee's work. Various statutory intricacies will also come into play depending on the particular state where your school or entity operates. For example, healthcare workers who find themselves interacting with ill people are more likely to have workers' compensation coverage related to illness.

### General Liability Insurance

General liability policies provide coverage for injury to persons (other than your employees) and damage to property of a third party for which you are legally liable. Liability for such injury or damage involving COVID-19 or a similar health emergency will arise chiefly out of a failure to protect others and their property against exposure to infection. Many general liability policies have exclusions that could preclude coverage for this kind of infection. Careful examination of the policy's coverage terms, conditions and exclusions will be necessary to determine if such a limitation applies to you. Additionally, umbrella and/or excess liability policies may contain a communicable disease exclusion.

## Property/Business Interruption

Standard property policies require that physical loss or damage to covered property, by an insured peril, occur for coverage to trigger. Contamination of property at an insured's location may constitute physical loss or damage, but policy exclusions for pathogenic organisms, viruses, and disease- or illness-causing agents may restrict or exclude coverage. For business interruption coverage to trigger, the loss or damage must generally occur on the insured's premises. Business interruption extensions such as contingent business income, ingress/egress, loss of attraction and denial of access are subject to the same coverage parameters outlined above, although not necessarily occurring at an insured location.

Limited available coverage for communicable or infectious disease is offered on some property forms. This coverage is likely sublimited and narrow in its coverage scope, especially outside of an insured location. Covered costs include cleanup, removal and disposal of contaminated property. Any business interruption extension will likely not apply to locations that are not owned or operated by the insured.

## Environmental Insurance

In addition to the property policy, consideration should be given to the environmental liability policy. Currently environmental liability policy forms do not identify COVID-19 as a pollutant and do not specifically exclude it by name. Some policies, however, do contain communicable disease exclusions that preclude coverage when a disease is transmitted by personal contact. However, they do not exclude transmission of the disease caused by the environment within the insured site.

If a "pollution event" has taken place, or a "pollution condition" exists, coverage may apply in cases of negligence or strict liability. In turn, negligence can be the failure to prevent the spread of the disease on your premises, or the coverage may be triggered by strict liability as the result of a "pollution event" that has taken place, or a "pollution condition" under environmental laws.

## Management Liability

Management liability insurance is being evaluated on a case-by-case basis as the COVID-19 threat is monitored. Many companies have made disclosures that COVID-19 has caused disruptions in production, staffing and sales. Accordingly, we may begin seeing COVID-19-related D&O claims.

It remains to be seen whether employment practices liability policies are impacted. Employees impacted by quarantine and unable to work may be seeking accommodations or leaves of absence. It is unclear whether quarantine gives rise to obligations under FMLA or ADA.

## Travel Accident Policy

The [U.S. Department of State](#) has increased the level of risk for travel to certain countries and continues to update its advisories as they monitor the threat. Some countries have instituted preventive measures for travelers that want to visit, are requiring medical clearance before the traveler is permitted to enter the country or are instituting other measures, including a health quarantine.

As of early February, carriers and underwriters are no longer including the threat of COVID-19 as a covered trigger for evacuation, cancellation and interruption benefits. Even the cancel-for-any-reason policies available in the market have excluded the COVID-19 from their covered triggers. These policies will only cover a traveler who actually contracts the virus. Therefore, it is critical that you discuss this with your risk management team to determine the potential threat before you or your employees decide to travel.

Twenty-four-seven travel assistance services are still available for travelers around the globe to assist in booking passage home at the cost of the traveler.



## ACTIONS YOU CAN TAKE NOW

Gallagher's National Risk Control team advises you on five key ways your organization can prepare for a pandemic and help ensure the safety of your employees.

### 1. Review your business continuity plan or COOP.

Check your business continuity and pandemic procedures to ensure your organization is prepared if your employees become ill; for many public agencies, those are contained within a continuation of operations plan (COOP). Your continuity plan should include the measures you will take if an employee is infected and how to accommodate employees who don't feel safe working in a communal space or whose home life may be affected if schools or childcare centers are closed. It should also include a plan to address any employee who is at risk of infection while traveling in quarantined areas.

Identify critical people, processes and technologies that have the biggest negative impact on your operations and create recovery strategies to minimize disruption. This could include outsourcing, allowing more flexible teleworking options or developing commuting alternatives for your employees if public transportation is not available. Consider the critical supplies you need for your operations to ensure you have a backup plan should there be a breakdown along the line. This may involve increasing inventory levels of high-volume products/services.

### 2. Communicate with your employees, vendors, partners and customers.

Share information and official updates from organizations like the WHO or the CDC with your employees so they understand the potential threats. Encourage them to speak up if they start to develop symptoms and reassure them that self-reporting is safe. Ask them to quarantine themselves if they have been to areas where the virus has been reported.

### 3. Educate your employees.

Communicate with internal and external stakeholders about how you're handling the pandemic at the workplace. Educate your employees on your continuity plans and procedures so they know what to expect if your organization is impacted. Issue travel advisories and make sure they understand the resources available to protect them. Ongoing communication about the pandemic will help your employees feel informed and safe.

### 4. Prepare your physical workspace.

Review your physical workplace for potential points of transmission of infection like shared desks and telephones, keyboards, conference rooms and common areas. Increase the frequency of office cleanings, provide more personal hygiene products like hand sanitizer and biocidal cleansers. Communicate with your employees and visitors about how they can protect themselves around the office and at home.

### 5. Contact your local hospitals and officials.

Communicate with the emergency preparedness coordinator at your local hospital to understand what resources are available to you and your employees and to ensure there is a plan in place in case of an emergency. You can also contact the infectious and emerging diseases at the department of health in your region to organize a response in the event of an emergency.

## WHAT THIS MEANS FOR K-12 SCHOOLS AND PUBLIC ENTITIES

Public and private schools should review upcoming travel plans, such as local field trips, athletic events or global education. Many schools are already revising spring break trips and limiting visits from foreign visitors or exchange programs. Another consideration is the return of families and groups from overseas trips, especially from areas that have experienced high rates of infection. Student accident and travel insurance should be reviewed to clarify coverage triggers, limits and exclusions.

In an extreme scenario, public schools and other public facilities may be commandeered as emergency medical facilities. That would require a statewide emergency declaration from the governor and could engage assistance from federal agencies as well as local hospitals and medical staff. Again, be sure that you have emergency plans at the ready for potential school closures or service disruptions and understand how your organization would respond.

For local governments and special districts, exposure to the virus may be difficult to avoid when the public services your organization delivers are essential, such as law enforcement, safety and security, healthcare, childcare, social services and transportation. Updating your COOP or business continuity plan is critical; developing backup and alternate plans for service delivery can assure that your organization is well prepared. Training for employees is paramount, as are regular communication and updates. Other aspects of operations that may be affected and should be considered include implications for reduced tax revenue, an appropriate inventory of essential products and supplies, attendance at conferences, meetings and large group events.

Regardless of whether you operate a school or a public entity, you will have employees and constituents who will be worried and influenced by rumor and incorrect information. Keep a list of credible resources and check them regularly for updates.

This is an evolving risk that Gallagher continues to monitor through the CDC and the WHO. Please visit our [Pandemic Preparedness page](#) for the latest information, or contact your Gallagher broker.

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