

# Preparing Policies, Internal Comms For Public Health Crises

By **Caroline Berdzik, Peter Woo, Kristin Wheaton and Aidan Ryan** (March 11, 2020)

The coronavirus, also known as COVID-19, is making headlines around the world and is adversely impacting the stock market and the outlook for many sectors of the economy, from travel and tourism to retail, tech, banking and even the legal profession.

As of March 11, the New York Times reported[1] that more than 124,000 people have been infected globally, with more than 4,000 deaths. In the United States, there are 1,107 confirmed reported cases, with 32 deaths — and more cases are being confirmed throughout the country with each day.

This evolving public health crisis presents distinct and complex challenges for employers who must balance workplace safety, productivity and compliance with employment and civil rights laws, all while shouldering an additional responsibility to field numerous employee queries, quickly communicate urgent policy updates, and stem the flow of panic and misinformation.

## Employment Policies: Balancing Safety and Compliance

All employers must exercise prudence and vigilance while avoiding panic and poor decision-making in addressing coronavirus concerns. Decisions made in haste can lead to business interruption, financial consequences and even lawsuits. Risks range from creating awkward situations between customers and employees to promoting hostile or offensive work environments or opening the door to discrimination claims by employees or third parties against the employer.

While an evolving crisis will require flexibility and course corrections regarding employment policies and practices, executives tasked with navigating a company or organization's coronavirus response should do the following:

- Re-review illness and absence policies to ensure they are in compliance with all applicable local, state and federal laws, including Occupational Safety Health Act, Family Medical Leave Act, Americans with Disabilities Act and equivalent local ordinances and state law.
- Emphasize leaves of absence and working remote options when sick as allowed per company policy.



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- Provide proper safety equipment, including hygiene products and other safety equipment to protect against exposure from the virus.
- Circulate information to management and employees providing education on sound hygiene practices, respiratory etiquette and prevention measures.
- Develop emergency action plans to ensure they include following infection disease protocols from governmental agencies such as the Centers for Disease Control and Prevention, state and county health officials.
- Perform routine environmental cleaning as appropriate.
- Limit all nonessential travel to affected regions, as necessary, and provide guidance for employees who are traveling to mitigate risk of contracting the virus.
- Consider any other policies or procedures to protect and prevent employees, customers and vendors from exposure in compliance with applicable law and regulations.

As noted above, employers should avoid enacting policies or acting in a manner that discriminates against employees and third persons under federal, state and local laws, including without limitation, Title 7 of the Civil Rights Act, the Americans with Disabilities Act and the Family and Medical Leave Act.

We suggest paying particular attention to race- or national origin-based harassment, discrimination or disparate treatment complaints, and to monitor the CDC continuously updated map of countries affected by the coronavirus. Any such policies should be enforced in a uniform and consistent method, including reasonably accommodating employees unless it creates an undue hardship on the employer.

Under the ADA, employers typically cannot make disability-related inquiries or require medical examinations unless the employer has a reasonable belief based on objective evidence that either:

- The employee's ability to perform essential job functions will be impaired by the medical condition; or

- The employee poses a direct threat due to the medical condition, as defined by regulations promulgated by the U.S. Equal Employment Opportunity Commission.

Finally, under FMLA and equivalent state laws, employees infected by the virus or flu or employees with a spouse, child or parent infected by the virus or flu are entitled to FMLA leave. Employers should ask employees for appropriate doctor's notes, and can ask for FMLA notices and certifications to be completed accordingly.

As the coronavirus continues to impact our lives more every day, we urge employers to exercise measured but deliberate actions by contacting health authorities and legal counsel for guidance on how to take affirmative steps towards maximizing its chances at protecting against the spread of the virus for as many employees and other persons as possible.

### **Internal Communications for Evolving Public Health Situations**

Internal communications during an evolving public health crisis present challenges for employers that are informed by — but distinct from — the challenges of employment policy-related decision-making.

Even the best and most cool-headed crisis response can backfire if management isn't able to communicate these changes to employees promptly and clearly — or stop the flow of bad information before it causes a panic. In preparing for and navigating a response to the coronavirus (or any other public health situation), employers should keep the following axioms in mind.

#### **1. Identify a crisis-response team — before the crisis.**

This team should include a senior HR representative, a senior member of the facilities or operations team, and a senior communications specialist or executive.

The HR representative should be responsible for fielding all internal queries related to the public health crisis and firm policies regarding closures and accommodations.

The facilities/operations representative should run point on all matters related to office closures, travel policies, unusual technology demands and emergency measures.

The communications representative should be responsible for establishing direct and continuous contact with relevant state and local government bodies and health authorities, communicating with the media if necessary, continuously advising on adjustments to key internal talking points and regularly updating the company's C-suite and/or senior leadership.

#### **2. Communicate early to the entire organization.**

As soon as the C-suite, executive board or crisis response team recognizes a crisis, they must convene and carefully craft an initial message to the entire organization. A public health crisis is totally unlike the closure of a single location due to a snow storm. Especially in the face of a health scare striking unprepared local, state and federal governments — and especially in 2020, when the Edelman Trust Barometer measures record-low levels of trust in government — people will increasingly turn to their employers for reassurance and information.

Employees (as well as the public) have higher-than-ever expectations for ethical and transparent actions and communications.

This initial communication should come from a highly visible senior executive — a CEO, chief human resources officer or board chair. Email is likely the best method of distribution, though the message may be duplicated where employees can easily relocate and reference it — for example, on the intranet. This initial message should cover topics including:

- Identification of the crisis response team and where to direct coronavirus-related queries;
- Advisement on office closures and travel restrictions;
- Any workplace policies covered in the first section of this article;
- Employment-related health care resources;
- Business continuity measures and expectations;
- Where to find the latest, reliable global and local information on the spread of the coronavirus (for example, the CDC's website or the websites of local health care providers and NGOs); and
- Encouragement for any employees feeling sick or showing symptoms to stay at home.

### **3. Adequately prepare front-line managers and senior office administrators.**

Front-line managers will be crucial to maintaining calm and preventing the spread of disinformation. Front-line managers have this title for a reason — in most cases they will be the first to field employee queries, and will serve as the face of the company to the majority of its workforce.

They can either help maintain calm or contribute to the panic. The difference will lie in preparation. Once a crisis breaches, the crisis response team must identify itself and communicate expectations to all department heads and senior office administrators, and craft and circulate a one-pager with talking points and guidelines on responding to employee inquiries to all front-line managers.

#### **4. Make sure employees know where to get the latest information — and be consistent in delivering it.**

While a high-level executive will deliver the organization's first message and front-line managers will continuously disseminate information to small teams and individuals, employers should also rely on other available communications channels to get out timely messages.

These could include direct internal email, interoffice mail, emergency communications systems (such as automated mass texts), video displays, the intranet or even social media. Internal communicators need to be thoughtful and consistent about the use of these channels, though.

Think about how employees use each channel and what types of information they expect to find there, think about the unique tone of each channel (the inherent urgency of texts, for example), and think about speed and efficacy.

Regardless of a company's choice, the crisis response team should set and stick to clear policies for the what, when, and where of internal communications. If possible, the organization should create and point employees to a central hub for the latest information, and update it frequently. The intranet is a great place for this.

#### **5. Relay appropriate restrictions and expectations to the social media team.**

Organizations tend to think of social media as exclusively external communications channels, but typically data will show that employees make up a huge segment of an organization's social media audience — especially on [Facebook](#). To maintain normal business operations, continue contact with key external audiences, and be respectful of the marketing team's purview, organizations should not make rash decisions to suspend or radically alter external communications, including social media.

However, the designated response team should meet with the group or individual responsible for daily social media management. Besides ensuring the rapid release of external messages through social media should the need arise, such a meeting will also give the rapid response team an opportunity to set expectations around the use of social media for the duration of the crisis.

The social media team should continuously monitor interactions and mentions of the organization and pass on any crisis-related messages — direct or indirect — to the response team. The rapid-response team, in turn, should prepare the social media team with a one-pager of anticipated questions from employees or external audiences, along with suggested templates for responding.

In these situations, any inappropriate response on social media — whether too casual or too canned — can come across poorly and draw criticism, derision or deepened panic.

#### **6. Empathize.**

Above all, organizational leaders must empathize with their employees. This is good advice in general — but it is especially important to keep in mind during a crisis calling for quick decisions under mounting pressure. In these situations, responsible parties may lose sight of the unique needs and concerns of their employees.

For many employees — those who are immunocompromised, underinsured, in debt, possibly infected, or responsible for at-risk loved ones, for example — these needs, concerns and additional pressures will not be immediately apparent.

Decision-makers and communicators must strive to hear out the questions and concerns of all employees without judgment or hasty conclusions, and to respond with intelligent empathy. Vagueness, evasion and rote responses will do irreparable damage.

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[1] [https://www.nytimes.com/interactive/2020/world/coronavirus-maps.html?action=click&pgtype=Article&state=default&module=style-coronavirus&variant=show@ion=TOP\\_BANNER&context=storyline\\_menu](https://www.nytimes.com/interactive/2020/world/coronavirus-maps.html?action=click&pgtype=Article&state=default&module=style-coronavirus&variant=show@ion=TOP_BANNER&context=storyline_menu).